UNITED STATES DEPARTMENT OF JUSTICE
AND
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IX

IN THE MATTER OF: 4350 Temple City Blvd. and 4303, 4313, 4315 and 4319 Rowland Ave., El Monte, California, 91731, El Monte SS Properties, LLC, Purchaser	CERCLA Docket No. 2023-01 **ADMINISTRATIVE SETTLEMENT AGREEMENT FOR REMOVAL ACTION AND PAYMENT OF RESPONSE COSTS BY BONA FIDE PROSPECTIVE PURCHASER**

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I. GENERAL PROVISIONS

1. This Administrative Settlement Agreement for Removal Action and Payment of Response Costs by Bona Fide Prospective Purchaser ("Settlement") is entered into voluntarily by and between the United States on behalf of the Environmental Protection Agency ("EPA") and the purchaser, El Monte SS Properties, LLC ("Purchaser"). This Settlement provides for the performance of a removal action by Purchaser and the payment of certain response costs incurred by the United States at or in connection with the properties located at 4350 Temple City Boulevard and 4303, 4313, 4315 and 4319 Rowland Avenue, El Monte, California, 91731 (collectively, the "Property"); all five (5) of these properties were originally part of the former Crown City Plating Facility.

2. This Settlement is entered into pursuant to the authority of the Attorney General to compromise and settle claims of the United States, consistent with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9601-9675. EPA is proceeding under the CERCLA authority vested in the President of the United States and delegated to the Administrator of EPA and further delegated to the undersigned Regional official.

3. EPA has notified the State of California (the "State") of this action.

4. Purchaser represents that it is a bona fide prospective purchaser ("BFPP") as defined by Sections 101(40) and 107(r)(1) of CERCLA, 42 U.S.C. §§ 9601(40) and 9607(r)(1), that it has and will continue to comply with Sections 101(40) and 107(r) of CERCLA, 42 U.S.C. §§ 9601(40), 9607(r)(1), during its ownership of the Property, and thus qualifies for the protection from liability under CERCLA set forth in Section 107(r)(1) of CERCLA, 42 U.S.C. § 9607(r)(1), with respect to the Property. Purchaser agrees to undertake all actions required by the terms and conditions of this Settlement. In view of the complex nature and significant extent of the Work to be performed in connection with the removal action described in this Settlement, and the risk of claims under CERCLA being asserted against Purchaser notwithstanding Section 107(r)(1) of CERCLA, 42 U.S.C. § 9607(r)(1), as a consequence of Purchaser's activities at the Property pursuant to this Settlement, one of the purposes of this Settlement is to resolve Purchaser's potential CERCLA liability in accordance with the covenants not to sue in Section XVIII (Covenants by United States), subject to the reservations and limitations contained in Section XIX (Reservations of Rights by United States).

5. The resolution of this potential liability, in exchange for Purchaser's performance of the Work, is fair, reasonable, and in the public interest.

6. The United States and Purchaser (collectively, the "Parties") recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Purchaser in accordance with this Settlement do not constitute an admission of any liability. Purchaser does not admit, and it retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Settlement, the validity of the statement of facts and determinations in Sections IV (Statement of Facts) and V (Determinations) of this Settlement. Purchaser agrees to comply with and be bound by the terms of this Settlement, and to not contest

the basis or validity of this Settlement or its terms, or the United States' right to enforce this Settlement.

II. PARTIES BOUND

7. This Settlement is binding upon the United States and Purchaser and upon Purchaser's successors and assigns. Any change in ownership of Purchaser or corporate status of Purchaser does not alter Purchaser's responsibilities or protections under this Settlement.

8. Purchaser may Transfer the Property, or any portion of or interest in the Property, to any third party without the approval or consent of EPA, provided that Purchaser shall continue to be bound by all terms and conditions, and remain the sole party entitled to all benefits, of this Settlement. EPA expects any third party subject to a Transfer of all or any portion of or interest in the Property to avail itself of protections afforded a "bona fide prospective purchaser" under Sections 101(40) and 107(r)(1) of CERCLA, 42 U.S.C. §§ 9601(40) and 9607(r)(1), and to maintain its status as a "bona fide prospective purchaser" for the duration of its interest in the Property that is transferred.

9. Purchaser may conduct a one-time transfer of its rights, obligations, and benefits of the Settlement to any third party ("First Transferee of the Settlement") prior to EPA's issuance of the Notice of Completion of Work provided: (1) there is adequate Work to be performed by the First Transferee as consideration to EPA as part of the transfer of Purchaser's rights, obligations, and benefits of the Settlement, and (2) EPA and Purchaser so agree and modify this Settlement in writing and First Transferee agrees in writing to such a modification, pursuant to Section XXV (Modification).

10. The First Transferee of the Settlement may also conduct a one-time transfer of its rights, obligations, and benefits of the Settlement to any third party ("Second Transferee of the Settlement") prior to EPA's issuance of the Notice of Completion of Work provided: (1) there is adequate Work to be performed by the Second Transferee as consideration to EPA as part of the transfer of First Transferee's rights, obligations, and benefits of the Settlement, and (2) EPA and First Transferee so agree and modify this Settlement in writing and Second Transferee agrees in writing to such modification, pursuant to Section XXV (Modification).

11. The transfers of the Settlement described in Paragraphs 9 and 10, above, are also subject to the following conditions:

a. Any such transfer of the Settlement shall require the prior written consent of the EPA in its sole discretion and is not subject to dispute resolution or judicial review. If EPA decides not to provide such written consent for transfer of the Settlement, upon request EPA shall meet with Purchaser or First Transferee, to discuss the decision not to provide consent.

b. EPA expects any First Transferee or Second Transferee to avail itself of protections afforded a "bona fide prospective purchaser" under Sections 101(40) and 107(r)(1) of CERCLA, 42 U.S.C. §§ 9601(40) and 9607(r)(1), and to maintain its status as a "bona fide prospective

purchaser" for the duration of its interest in the Property that is transferred.

c. Prior to or simultaneous with any transfer of the Settlement, any First Transferee or any Second Transferee must consent in a written modification to this Settlement, pursuant to Section XXV (Modification), to be bound by all the transferred terms, conditions, and obligations of this Settlement, which must include but are not limited to Section VII (Removal Action to be Performed), the certifications contained in Section XVII (Certification), contribution protection under Section XXI (Effect of Settlement/Contribution), and financial assurance under Section XXIV (Financial Assurance) in order for the covenants not to sue in Section XVIII (Covenants by United States) to be available to the First Transferee or Second Transferee. The covenants not to sue in Section XVIII (Covenants by United States) and the contribution protection under Section XXI (Effect of Settlement/Contribution) will be effective with respect to the First Transferee or Second Transferee upon counter signature by the United States. Such transfer of the Settlement by Purchaser or First Transferee shall not remove Purchaser's or First Transferee's protections under the Settlement, including covenants not to sue in Section XVIII (Covenants by United States) and the contribution protection under Section XXI (Effect of Settlement/Contribution).

d. Once the transfer of the Settlement has become effective:

(1) Purchaser or First Transferee shall have no further obligations under this Settlement, except the obligations under Sections IX (Access to Information) and X (Record Retention) while the Purchaser or First Transferee exists as an on-going business entity.

(2) Further, Purchaser or First Transferee shall notify EPA at least 90 days prior to any planned dissolution of the Purchaser or First Transferee as an on-going business entity and provide EPA with an opportunity to request Records. Upon request by EPA prior to dissolution, Purchaser or First Transferee shall deliver any such requested Records to EPA.

e. Purchaser and First Transferee agree to pay the reasonable costs incurred by the United States to review any request for consent to transfer this Settlement.

12. The undersigned representative of Purchaser certifies that the signatory is authorized to enter into the terms and conditions of this Settlement and to execute and legally bind Purchaser to this Settlement.

13. Purchaser shall provide a copy of this Settlement to each contractor hired to perform the Work required by this Settlement and to each person representing Purchaser with

respect to the Property or the Work, and it shall condition all contracts entered into hereunder upon performance of the Work in conformity with the terms of this Settlement. Purchaser or its contractors shall provide written notice of the Settlement to all subcontractors hired to perform any portion of the Work required by this Settlement. Purchaser shall nonetheless be responsible for ensuring that its contractors and subcontractors perform the Work in accordance with the terms of this Settlement.

III. DEFINITIONS

14. Unless otherwise expressly provided in this Settlement, terms used in this Settlement that are defined in CERCLA or in regulations promulgated under CERCLA have the meaning assigned to them in CERCLA or in such regulations, including any amendments thereto. Whenever terms listed below are used in this Settlement, the following definitions apply:

"BFPP" means a bona fide prospective purchaser as described in Section 101(40) of CERCLA, 42 U.S.C. § 9601(40).

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

"Day" or "day" means a calendar day. In computing any period of time under this Settlement, where the last day would fall on a Saturday, Sunday, or federal or State holiday, the period runs until the close of business of the next working day.

"DOJ" means the United States Department of Justice and its successor departments, agencies, or instrumentalities.

"Effective Date" means the effective date of this Settlement as provided in Section XXXII (Effective Date).

"EPA" means the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

"EPA Hazardous Substance Superfund" means the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

"Existing Contamination" means:

a. any hazardous substances, pollutants or contaminants present or existing on or under the Property prior to or as of the Effective Date;

b. any hazardous substances, pollutants or contaminants that migrated from the Property prior to the Effective Date; and

c. any hazardous substances, pollutants or contaminants present or existing at the Site or at the Property as of the Effective Date that

migrate onto, under or from the Site or the Property after the Effective Date.

"Future Response Costs" means all costs, including, but not limited to, direct and indirect costs, that the United States incurs (1) in reviewing or developing deliverables submitted pursuant to this Settlement, (2) in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, community involvement costs, (3) the costs incurred pursuant to Section VIII (Property Requirements) (including, but not limited to, cost of attorney time and any monies paid to secure or enforce access or land, water, or other resource use restrictions, and/or to secure implement, monitor, maintain, or enforce institutional controls, including, but not limited to, the amount of just compensation); Section XII (Emergency Response and Notification of Releases); Paragraph 107 (Work Takeover); Paragraph 125 (Access to Financial Assurance); and Section XIV (Dispute Resolution), and (4) all litigation costs related to this Settlement.

"Interest" means interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest is the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at https://www.epa.gov/superfund/superfund-interest-rates.

"National Contingency Plan" or "NCP" means the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

"Paragraph" means a portion of this Settlement identified by an Arabic numeral or an upper- or lower-case letter.

"Parties" means the United States and Purchaser.

"Post-Removal Site Control" means actions necessary to ensure the effectiveness and integrity of the removal action to be performed pursuant to this Settlement consistent with Sections 300.415(l) and 300.5 of the NCP and "Policy on Management of Post-Removal Site Control" (OSWER Directive No. 9360.2-02, Dec. 3, 1990).

"Property" means 4350 Temple City Boulevard (APN 8577-01-028), 4303 Rowland Avenue (APN 8577-001-041), and 4313, 4315, and 4319 Rowland Avenue (APN 8577-001-25), El Monte, California, 91731, which were acquired by Purchaser, encompass approximately 10 acres, and make up a portion of the former Crown City Plating Facility. The Property is generally depicted in Appendix A of this Settlement.

"Purchaser" means El Monte SS Properties, LLC.

"RCRA" means the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

"RPM" means the Remedial Project Manager as defined in 40 C.F.R. § 300.5.

"Section" means a portion of this Settlement identified by a Roman numeral.

"Settlement" means this Administrative Settlement Agreement for Removal Action and Payment of Response Costs by Bona Fide Prospective Purchaser, all appendices attached hereto (listed in Section XXVII (Integration/Appendices)), and all deliverables included under and incorporated by reference into this Settlement. In the event of conflict between this Settlement and any appendix, this Settlement controls.

"Site" means the El Monte Operable Unit of the San Gabriel Valley (Area 1) Superfund Site, located in El Monte, Los Angeles County, California and depicted generally on the map attached as Appendix B.

"State" means the State of California.

"Transfer" means to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

"United States" means the United States of America and each department, agency, and instrumentality of the United States.

"Waste Material" means (a) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (d) as any of the foregoing terms are defined under any appropriate or applicable provisions of California law.

"Work" means all activities and obligations Purchaser is required to perform under this Settlement, except those required by Section X (Record Retention).

IV. STATEMENT OF FACTS

15. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed four San Gabriel Valley Superfund sites (Area 1, Area 2, Area 3, and Area 4) on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B. 49 Fed. Reg. 40320 (Oct. 15, 1984). The NPL listing of these four Superfund sites resulted from the discovery of contamination within aquifers forming the regional groundwater system known as the San Gabriel Valley Basin. The regional groundwater contamination is the result of decades of poor chemical handling and disposal practices by many business operations within the San Gabriel Valley. Most of the activities that led to the contamination likely occurred between the 1940s and 1970s.

16. The Site is one of five operable units of the San Gabriel Valley (Area 1) Superfund Site. Area 1 is one of the four Superfund sites discussed in Paragraph 15, above. The Site consists of approximately three-square miles of contaminated groundwater under the cities of El Monte and Rosemead and a small portion of Temple City. The main contaminants of concern at the Site are trichloroethene ("TCE"), tetrachloroethene ("PCE"), 1,4-dioxane, perchlorate, and hexavalent chromium.

17. Between 1956 and 2004, Crown City Plating Company ("CCPC") operated an approximately 12-acre metal plating facility ("Facility") above a portion of what is now the Site. CCPC conducted plating operations on three parcels, informally referred to as the central, eastern, and southern parcels. CCPC's operations at the Facility included large scale, mass production electroless plating, electroplating, burnishing, and painting of automotive, hardware, and decorative parts. CCPC also performed plastic injection molding at the Facility. During its operations, CCPC reportedly was one of the largest metal finishers in the United States specializing in brass, copper, chrome, and nickel plating, as well as plastics plating, and finishing for the automotive, electronics, plumbing, and hardware industries. CCPC also conducted some gold and silver plating at the Facility. CCPC owned the central and eastern parcels (approximately ten acres) and leased the southern parcel (approximately two acres) from Southern Pacific Transportation Company.

18. Between 1988 and 1989, CCPC installed three groundwater monitoring wells (E-1, E-2, and E-3) to depths of approximately 100 feet at the Facility. TCE and PCE were detected from wells E-1 and E-2 at concentrations up to 600 micrograms per liter (µg/L) and 3,600 µg/L, respectively. PCE and TCE were also detected in groundwater samples from well E-3 at concentrations up to 34 µg/L and 730 µg/L, respectively.

19. On May 7, 1990, EPA issued a General Notice of Potential Liability to CCPC and other potentially responsible parties for the Site.

20. On May 7, 1992, the Los Angeles Regional Water Quality Control Board issued Cleanup and Abatement Order (92-001) to CCPC and Southern Pacific Transportation Company (owner of the southern parcel leased to CCPC) to characterize the full extent of any on-site contamination at the Facility. CCPC did not comply with the Cleanup and Abatement Order, ceasing all investigations in 1996.

21. On October 11, 1994, EPA issued a Special Notice Letter to CCPC to negotiate the performance of the Remedial Investigation/Feasibility Study ("RI/FS") for the San Gabriel Valley (Area 1) Superfund Site.

22. On May 31, 1995, EPA issued a Unilateral Administrative Order, Docket No. 95-017, to CCPC to perform certain RI/FS tasks.

23. A group of potentially responsible parties for the Site completed a Remedial Investigation Report in April 1998 and a Feasibility Study Report in July 1998. On June 23, 1999, the Superfund Director, EPA Region 9, issued, and the California Department of Toxic Substances Control ("DTSC") concurred on, the Interim Record of Decision ("IROD") for the Site. The IROD addresses regional groundwater contamination at the Site. The selected remedy

is containment of groundwater contaminated with volatile organic compounds ("VOCs") in the shallow and deep zones of the Site to prevent further migration of existing groundwater contamination. In August 2002, EPA issued an Explanation of Significant Differences ("ESD") modifying the IROD to include the following contaminants: perchlorate, hexavalent chromium, n-nitrosodimethylamine ("NDMA"), and 1,4 dioxane. In addition, the ESD set groundwater treatment applicable or relevant and appropriate requirements ("ARARs") for the newly added chemicals. Pursuant to a 2004 Consent Decree, Docket No. CV04-1490 RSWL (CWX) (C.D. Cal.), a group of responsible parties are implementing the entire remedy selected in the IROD and ESD for the Site.

24. CCPC managed hazardous waste at the Facility pursuant to a Permit-by-Rule ("PBR") permit issued on July 8, 1993, by the Department of Health Services, predecessor agency to DTSC under Health and Safety Code Chapter 6.5 (Hazardous Waste Control). The PBR permit authorized three units: (1) PBR Unit No.1, entitled "Oil Water Separation Unit" or "Aboveground Spent Chemical Holding Tanks"; (2) PBR Unit No. 2, entitled "Batch Treatment" or "Drum Wash Area"; and (3) PBR Unit No. 3, entitled "Wastewater Treatment Area" or "Environmental Treatment Unit." Administration of that PBR permit subsequently passed from DTSC to the Consolidated Unified Program Agency ("CUPA"). CCPC was last given annual PBR Renewal of Authorization by Los Angeles County Fire Department - Human Health Hazardous Material ("LACFD-HHMD") in 2006. The three units authorized by PBR are subject to closure plan requirements in California Code of Regulations, title 22, division 4.5, chapter 45. PBR Units No. 1 and 2 were closed by CCPC's submittal of closure certification in 2006 as a part of CCPC's annual PBR notification package as reflected in the DTSC memorandum dated October 9, 2019.

25. In April 2008, hexavalent chromium was detected in groundwater monitoring well E-2 at a concentration of 560 µg/L.

26. On June 11, 2008, EPA initiated an emergency response action to mitigate threats posed by abandoned plating wastes at the Facility.

27. On October 30, 2008, EPA issued an action memorandum, and in December 2008 performed a time-critical removal action at the Facility to mitigate threats to human health and the environment posed by the presence of uncontrolled hazardous substances (asbestos, cyanides, chromium, copper, lead, nickel, antimony, zinc, and corrosive liquids and solids).

28. On September 2, 2009, DTSC issued an Imminent and Substantial Endangerment Determination for the Facility and initiated investigation and characterization activities.

29. On October 22, 2012, DTSC's consultant, AMEC, issued a Data Gap Investigation Report ("DGI") documenting hexavalent chromium as the primary chemical of concern ("COC") in soils. Hexavalent chromium was also found in sumps at the Facility in concentrations exceeding 1,000 µg/L in water. VOCs were the primary COCs in soil vapor with PCE concentrations as high as 130,000 micrograms per cubic meter (µg/m^3). The DGI did not address potential groundwater impacts associated with operations at the Facility.

30. In November 2012, 4350 Temple City Boulevard and 4303 Rowland Avenue, were purchased by Temple CB, LLC ("Temple"). In June and July 2017, Temple's contractor, Fulcrum Resources Environmental, conducted a Soil Vapor Extraction Pilot Study, and on August 18, 2017, issued a Revised Vapor Intrusion Investigation Report. On January 10, 2017, Temple filed for bankruptcy. As part of the bankruptcy, the former Crown City Plating parcels were listed for sale.

31. Purchaser is a limited liability company ("LLC") located at 1171 South Robertson Blvd, Suite 417, Los Angeles, California 90035. Purchaser is in the business of owning and leasing non-residential property. Purchaser represents that it has never had an affiliation with Crown City Plating or with Temple CB, LLC.

32. On November 28, 2017, Purchaser finalized its Phase 1 Environmental Site Assessment Report for 4350 Temple City Boulevard (APN 8577-001-028) and 4303 Rowland Avenue (APN 8577-001-041), El Monte, California, which memorialized the "all appropriate inquiry" investigation for those properties. On November 29, 2017, Purchaser acquired ownership of 4350 Temple City Boulevard and 4303 Rowland Avenue, El Monte, California through a Court-approved sale from Temple's bankruptcy.

33. Purchaser hired Fulcrum Resources Environmental to continue working at the Property. Fulcrum Resources Environmental updated the Phase 1 Environmental Site Assessment for 4350 Temple City Boulevard and 4303 Rowland Avenue, El Monte, California, in a report dated June 12, 2019.

34. On July 25, 2019, Fulcrum Resources Environmental, issued, on behalf of Purchaser, a Phase 1 Environmental Site Assessment Report for the "eastern" parcel of the former plating facility (APN 8577-001-025) consisting of 4313, 4315, and 4319 Rowland Avenue, El Monte, California, which memorializes its "all appropriate inquiry" investigation for those properties. On December 3, 2019, Purchaser acquired the "eastern" parcel.

35. EPA has not identified Purchaser as a potentially responsible party at the Property or the Site, nor has EPA identified Purchaser as being responsible for past response costs or basin-wide response costs.

36. The Property is currently being used as commercial vehicle parking. Purchaser intends to redevelop the Property in a manner consistent with the City of El Monte's zoning for the Property.

37. Purchaser represents that during its ownership tenure, it has conducted certain reasonable steps and continuing obligations activities to address hazardous substances resulting from former CCPC historical operations, including characterization, clean-up and removal of abandoned Waste Material, fencing and security of the Property, expansion and upkeep of the Property's cap, the preparation of technical reports, activities to permit and prepare for the abandonment of the Property's deep production well, and demolition of buildings.

38. Addressing and cleaning up contamination at the Property will prevent further contamination of the groundwater that makes up the Site, which is a drinking water resource to

the community and will allow Purchaser to pursue future redevelopment of the Property consistent with City of El Monte zoning for the Property.

39. DTSC and the California Regional Water Quality Control Board have requested that EPA conduct a removal action to investigate and remediate the Property as provided in this Settlement. By letter dated August 19, 2022, and attached as Appendix C, DTSC deferred oversight of cleanup of the contamination at the Property to EPA. EPA is the lead oversight agency for the Work, the Property, and the Site. Any action memorandum documenting a cleanup decision for the Property will incorporate State ARARs, including the substantive requirements for closing the State RCRA-permitted units at the Property, to the extent practicable and shall also be consistent with the Work to be performed within this Settlement as set forth in detail in Section VII (Removal Action to be Performed), below.

V. DETERMINATIONS

40. Based on the Statement of Facts set forth above, EPA has determined that:

a. The Site is a "facility" and the Property is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

b. The contamination found at the Property, as identified in Section IV (Statement of Facts) above, includes "hazardous substance(s)" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

c. Purchaser is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

d. The conditions described in Section IV (Statement of Facts) above constitute an actual or threatened "release" of a hazardous substance from the Property as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

e. The conditions described in Section IV (Statement of Facts) above, may constitute an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from the Property within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

f. The removal action required by this Settlement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

VI. DESIGNATION OF CONTRACTOR, PROJECT COORDINATOR, AND REMEDIAL PROJECT MANAGER

41. Purchaser shall retain one or more contractors or subcontractors to perform the Work and shall notify EPA of the names, titles, addresses, telephone numbers, email addresses,

and qualifications of such contractors or subcontractors within 30 days after the Effective Date. Purchaser shall also notify EPA of the names, titles, contact information, and qualifications of any other contractors or subcontractors retained to perform the Work at least 30 days prior to commencement of such Work. EPA retains the right to disapprove of any or all of the contractors and/or subcontractors retained by Purchaser. If EPA disapproves of a selected contractor or subcontractor, Purchaser shall retain a different contractor or subcontractor and shall notify EPA of that contractor's or subcontractor's name, title, contact information, and qualifications within 21 days after EPA's disapproval. With respect to any proposed contractor, Purchaser shall demonstrate that the proposed contractor demonstrates compliance with ASQ/ANSI E4:2014 "Quality management systems for environmental information and technology programs – Requirements with guidance for use" (American Society for Quality, February 2014), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, Reissued May 2006) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Purchaser are subject to EPA's review for verification based on objective assessment criteria (e.g., experience, capacity, technical expertise) and that they do not have a conflict of interest with respect to the project.

42. Purchaser has designated, and EPA has not disapproved, the following individual as Project Coordinator, who will be responsible for administration of all actions by Purchaser required by this Settlement: Jeremy R Squire, PE, Vice President, Murex Environmental, Inc., 1 Corporate Park, Suite 101, Irvine, California, 92606, (714) 508-0800, JeremySquire@murexenv.com. Purchaser shall ensure, to the greatest extent possible, that the Project Coordinator is present on the Property or readily available during the Work. If EPA disapproves of the designated Project Coordinator, Purchaser shall retain a different Project Coordinator and shall notify EPA of that person's name, title, contact information, and qualifications within 14 days following EPA's disapproval. Project Coordinator may not be an attorney representing Purchaser in this matter. Notice or communication relating to this Settlement from EPA to Purchaser's Project Coordinator constitutes notice or communication to Purchaser. Purchaser has the right to change its designated Project Coordinator. Purchaser shall notify EPA 14 days before such a change is made. The initial notification by Purchaser may be made orally to EPA but shall be promptly followed by a written notice.

43. EPA has designated Raymond Chavira of the Superfund and Emergency Management Division, EPA Region IX, as its Remedial Project Manager ("RPM"). EPA has the right to change its designated RPM. All deliverables, notices, notifications, proposals, reports, and requests specified in this Settlement must be in writing, unless otherwise specified, and be submitted by email to Raymond Chavira at Chavira.Raymond@epa.gov.

44. The RPM is responsible for overseeing Purchaser's implementation of this Settlement. The RPM has the authority vested in an RPM by the NCP, including the authority to halt, conduct, or direct any Work required by this Settlement, or to direct any other removal action undertaken at the Property. Absence of the RPM from the Property is not cause for stoppage of Work unless specifically directed by the RPM.

VII. REMOVAL ACTION TO BE PERFORMED

45. Purchaser shall perform all actions necessary to perform an Engineering Evaluation/Cost Analysis ("EE/CA") and a non-time critical removal action ("NTCRA") to address contamination at the Property, as further described in this Section and as limited by Paragraphs 46 and 47 below.

46. In order to perform the EE/CA, Purchaser shall evaluate all contamination present or existing on or under the Property as described in further detail in this Paragraph (including subparagraphs (1)-(6) below) and this Section. Unless otherwise specified in this Paragraph (including subparagraphs (1)-(6) below) or Paragraph 47, the foregoing evaluation will be limited to the area within the Property boundary. For purposes of this Settlement, a) subsurface soil shall be defined through the depth of the unsaturated zone, commonly referred to as the vadose zone, within the Property boundary ("Subsurface Soil"); b) shallow zone groundwater shall be defined between the water table and 150 feet below ground surface ("bgs") within the Property boundary ("Shallow Zone Groundwater"); and c) upper deep zone groundwater shall be defined between 150 to 225 feet bgs within the Property boundary ("Upper Deep Zone Groundwater"). For purposes of this Settlement, it is further understood that existing groundwater data from off-Property monitoring wells within the Site and soil vapor data from off-Property monitoring wells within 500 lateral feet of the Property boundary will be evaluated for the tasks set forth below in subparagraphs (1), (2), (4), and (5). Specifically, the EE/CA shall address the following items:

(1) Characterize the nature and extent of contamination in the Subsurface Soil, Shallow Zone Groundwater, and Upper Deep Zone Groundwater. This characterization shall also include the use of existing data from off-Property groundwater monitoring wells within the Site.

(2) Delineate Subsurface Soil contamination to ARARs, including but not limited to VOCs, hexavalent chromium ("Cr VI") and other metals, and emerging contaminants (including 1,4-dioxane, NDMA, perchlorate, and perfluorooctanoic acids ("PFOA")/per- and polyfluoroalkyl ("PFAS"). This delineation shall also include the use of soil vapor data from existing off-Property monitoring wells within 500 lateral feet of the Property boundary.

(3) Delineate contamination in Shallow Zone Groundwater and Upper Deep Zone Groundwater for any identified source contaminants including VOCs, Cr VI and other metals, and emerging contaminants (1,4-dioxane, NDMA, perchlorate, and PFOA/PFAS). Groundwater in the Shallow Zone Groundwater shall be delineated laterally to the Property boundary and vertically to five times ARAR. Groundwater in the Upper Deep Zone Groundwater shall be delineated laterally to the Property boundary and vertically to lower depth of the Upper Deep Zone Groundwater.

(4) Identify and characterize – using existing off-Property groundwater and soil vapor data, and the data developed by Purchaser, or by others, within the Property boundary – all contamination sources on the Property and subsurface contaminant migration pathways from such sources.

(5) Evaluate – using existing off-Property groundwater and soil vapor data, and the data developed by Purchaser, or by others, within the Property boundary– removal alternatives to remediate contamination on, under, or from the Property.

(6) Provide for proper sampling, characterization, and disposal of all Waste Material recovered during the activities described within subparagraphs (1) – (5) herein.

47. Upon EPA's approval of the EE/CA and EPA's selection of a removal action in an Action Memorandum for a non-time critical removal action, Purchaser shall perform the removal action selected by EPA for Subsurface Soils and Shallow Zone Groundwater within the Property boundary. Nothing in this Settlement requires, nor shall be read to require, Purchaser to implement any response action or removal action selected in an Action Memorandum to address, abate, or cleanup contamination in or below the Upper Deep Zone Groundwater except : 1) for response actions provided in paragraph 46, above; 2) for groundwater monitoring on the Property in the Upper Deep Zone Groundwater for five (5) years from the date the Action Memorandum is issued by the EPA; and 3) for the proper destruction of the former production well on the Property. Nothing in this Settlement requires, nor shall be read to require, Purchaser to perform any selected response action or removal action beyond the Property boundary.

48. **Review of Deliverables.** Unless otherwise provided in this Settlement, for any deliverables that require EPA approval under this Settlement, EPA may approve, disapprove, require revisions to, or modify in whole or in part. If EPA requires revisions, Purchaser shall submit a revised draft deliverable within 21 days after receipt of EPA's notification of the required revisions. Purchaser shall implement the deliverable as approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the deliverable, the schedule, and any subsequent modifications will be incorporated into and become fully enforceable under this Settlement. Purchaser shall not commence or perform any Work except in conformance with the terms of this Settlement.

49. For any regulation or guidance referenced in the Settlement, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Purchaser receives notification from EPA of the modification, amendment, or replacement.

50. **Description of Deliverables**

a. Within 45 days of the Effective Date, Purchaser shall submit to EPA for review and approval an EE/CA Work Plan. The EE/CA Work Plan must provide a description of, and an expeditious schedule for, the actions

required to perform an EE/CA. The scope of the EE/CA is defined in Paragraph 46 above.

b. Within 45 days of EPA approval of the EE/CA Work Plan, Purchaser shall submit to EPA for review and approval a Site Characterization Work Plan for the Property which will include as appendices to the EE/CA Work Plan: (a) a Sampling and Analysis Plan ("SAP") with (i) a Field Sampling Plan ("FSP") and (ii) a Quality Assurance Project Plan ("QAPP"), that complies with Paragraph 53 (Quality Assurance, Sampling, and Data Analysis), below; and (b) a Health and Safety Plan ("HASP"), that complies with Paragraph 52 (Health and Safety Plan), below.

c. Within 60 days of EPA approval of the Site Characterization Work Plan for the Property, Purchaser shall commence performance of the EE/CA, consistent with the EE/CA Work Plan and appendices, Section 300.415(b)(4) of the NCP, and OSWER Directive 9360.0-32, Guidance on Conducting Non-Time Critical Removal Actions Under CERCLA (EPA/540-R-93-057, August 1993), and Paragraph 46, above.

d. Within 60 days of completion of field activities related to completion of the EE/CA, Purchaser shall submit to EPA for review and approval a Site Investigation and Removal Assessment Report for the Property.

e. Within 60 days of the submission of the Site Investigation and Removal Assessment Report for the Property, Purchaser shall submit to EPA for review and comment the following three technical memoranda:

(1) Identification of Removal Action Scope, Goals, and Objectives;

(2) Analysis of Remaining Data Gaps; and

(3) Identification and Analysis of Removal Action Alternatives (per each Area of Concern).

f. Within 60 days of EPA providing a copy of the EE/CA Approval Memorandum to Purchaser, Purchaser shall submit to EPA for review and approval the EE/CA Study Report. Based on the EE/CA, EPA may issue an Action Memorandum selecting a response/removal action for the Property.

g. Within 60 days of EPA providing a copy of the Action Memorandum to Purchaser, Purchaser shall submit to EPA for review and approval a Non-Time Critical Removal Action ("NTCRA") Work Plan to implement the response/removal action selected in the Action Memorandum. The NTCRA Work Plan must provide a description of, and an expeditious schedule for, the actions required to implement the response/removal action. The NTCRA Work Plan must include as appendices a Construction

QAPP and a Construction HASP, that complies with Paragraph 52 (Health and Safety Plan), below.

h. **Post-Removal Site Control.** In accordance with the NTCRA Work Plan schedule, or as otherwise directed by EPA, Purchaser shall submit to EPA for review and approval, a plan for Post-Removal Site Control. Upon EPA approval, Purchaser shall either conduct Post-Removal Site Control activities, or obtain a written commitment from another party for conduct of such activities, until such time as EPA determines that no further Post-Removal Site Control is necessary or until the issuance of the Notice of Completion of Work in Section XXVI (Notice of Completion of Work, whichever comes first. Purchaser shall provide EPA with documentation of all Post-Removal Site Control commitments.

51. **Submission of Deliverables**

a. **General Requirements for Deliverables**

(1) Except as otherwise provided in this Settlement, Purchaser shall direct all submissions required by this Settlement to the RPM, Raymond Chavira, 75 Hawthorne Street (SFD-7-3), San Francisco, California, 94105, (415) 947-4218, chavira.raymond@epa.gov. Purchaser shall submit all deliverables required by this Settlement or any approved work plan to EPA in accordance with the schedule set forth in this Settlement or in such work plan.

(2) Purchaser shall submit all deliverables in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in Paragraph 51.b. All other deliverables shall be submitted to EPA in the form specified by the RPM. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5 x 11 inches, Purchaser shall also provide EPA with paper copies of such exhibits.

b. **Technical Specifications for Deliverables**

(1) Sampling and monitoring data should be submitted in standard Regional Electronic Data Deliverable ("EDD") format. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

(2) Spatial data, including spatially-referenced data and geospatial data, should be submitted: (a) in the ESRI File Geodatabase format; and (b) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be

documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee ("FGDC") Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with these FGDC and EPA metadata requirements and is available at https://www.epa.gov/geospatial/epa-metadata-editor.

(3) Each file must include an attribute name for each site unit or sub-unit submitted. Consult https://www.epa.gov/geospatial/geospatial-policies-and-standards for any further available guidance on attribute identification and naming.

(4) Spatial data submitted by Purchaser does not, and is not intended to, define the boundaries of the Site.

52. **Health and Safety Plans.** Any HASP must ensure the protection of the public health and safety during performance of Work under this Settlement. Any HASP must be prepared in accordance with "OSWER Integrated Health and Safety Program Operating Practices for OSWER Field Activities," Pub. 9285.0-OlC (Nov. 2002), available on the NSCEP database at https://www.epa.gov/nscep, and "EPA's Emergency Responder Health and Safety Manual," OSWER Directive 9285.3-12 (July 2005 and updates), available at https://www.epaosc.org/_HealthSafetyManual/manual-index.htm. In addition, any HASPs must comply with all currently applicable Occupational Safety and Health Administration ("OSHA") regulations found at 29 C.F.R. Part 1910. If EPA determines that it is appropriate, the plan(s) must also include contingency planning. Purchaser shall incorporate all changes to the plan(s) recommended by EPA and shall implement the plans during the pendency of the response action.

53. **Quality Assurance, Sampling, and Data Analysis**

a. Purchaser shall use quality assurance, quality control, and other technical activities and chain of custody procedures for all samples consistent with "EPA Requirements for Quality Assurance Project Plans (QA/R5)" EPA/240/B-01/003 (March 2001, reissued May 2006) (https://www.epa.gov/quality/epa-qar-5-epa-requirements-quality-assurance-project-plans), "Guidance for Quality Assurance Project Plans (QA/G-5)" EPA/240/R-02/009 (December 2002) (https://www.epa.gov/quality/guidance-quality-assurance-project-plans-epa-qag-5), and "Uniform Federal Policy for Quality Assurance Project Plans," Parts 1-3, EPA/505/B-04/900A-900C (March 2005).

b. The SAPs required in Paragraph 50(b) must be consistent with the EE/CA Work Plan, NTCRA Work Plan, NCP and guidance, including, but not limited to, "Guidance for Quality Assurance Project Plans (QA/G-5)" EPA/240/R-02/009 (December 2002) (https://www.epa.gov/quality/guidance-quality-assurance-project-plans-

epa-qag-5), "EPA Requirements for Quality Assurance Project Plans (QA/R-5)" EPA 240/B-01/003 (March 2001, reissued May 2006) (https://www.epa.gov/quality/epa-qar-5-epa-requirements-quality-assurance-project-plans), and "Uniform Federal Policy for Quality Assurance Project Plans," Parts 1-3, EPA/505/B-04/900A-900C (March 2005). Upon approval by EPA, the SAPs will be incorporated into and become enforceable under this Settlement.

c. Purchaser shall ensure that EPA personnel and its authorized representatives are allowed access at reasonable times to all laboratories utilized by Purchaser in implementing this Settlement. In addition, Purchaser shall ensure that such laboratories analyze all samples submitted by EPA pursuant to the applicable QAPP for quality assurance, quality control, and technical activities that will satisfy the stated performance criteria as specified in the applicable QAPP and that sampling and field activities are conducted in accordance with the Agency's "EPA QA Field Activities Procedure," CIO 2105-P-02.1 (9/23/2014) available at http://www.epa.gov/irmpoli8/epa-qa-field-activities-procedures. Purchaser shall ensure that the laboratories it utilizes for the analysis of samples taken pursuant to this Settlement meet the competency requirements set forth in EPA's "Policy to Assure Competency of Laboratories, Field Sampling, and Other Organizations Generating Environmental Measurement Data under Agency-Funded Acquisitions" available at http://www.epa.gov/measurements/documents-about-measurement-competency-under-acquisition-agreements and that the laboratories perform all analyses according to accepted EPA methods. Accepted EPA methods consist of, but are not limited to, methods that are documented in the EPA's Contract Laboratory Program (http://www.epa.gov/clp), SW 846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (https://www.epa.gov/hw-sw846), "Standard Methods for the Examination of Water and Wastewater" (http://www.standardmethods.org/), 40 C.F.R. Part 136, "Air Toxics - Monitoring Methods" (http://www3.epa.gov/ttnamti1/airtox.html).

d. However, upon approval by EPA, Purchaser may use other appropriate analytical method(s), as long as (i) quality assurance/quality control ("QA/QC") criteria are contained in the method(s) and the method(s) are included in the applicable QAPP, (ii) the analytical method(s) are at least as stringent as the methods listed above, and (iii) the method(s) have been approved for use by a nationally recognized organization responsible for verification and publication of analytical methods, e.g., EPA, American Society for Testing and Materials ("ASTM"), National Institute of Occupational Safety and Health ("NIOSH"), OSHA, etc. Purchaser shall ensure that all laboratories it uses for analysis of samples taken pursuant to this Settlement have a documented Quality System that complies with ASQ/ANSI E4:2014 "Quality management systems for environmental information and technology programs - Requirements with guidance for

use" (American Society for Quality, February 2014), and "EPA Requirements for Quality Management Plans ("QA/R-2")" EPA/240/B-01/002 (March 2001, reissued May 2006), or equivalent documentation as determined by EPA. EPA may consider Environmental Response Laboratory Network ("ERLN") laboratories, laboratories accredited under the National Environmental Laboratory Accreditation Program ("NELAP"), or laboratories that meet International Standardization Organization ("ISO 17025") standards or other nationally recognized programs as meeting the Quality System requirements. Purchaser shall ensure that all field methodologies utilized in collecting samples for subsequent analysis pursuant to this Settlement are conducted in accordance with the procedures set forth in the applicable QAPP approved by EPA.

e. Upon request, Purchaser shall provide split or duplicate samples to EPA or its authorized representatives. Purchaser shall notify EPA not less than seven (7) days in advance of any sample collection activity unless shorter notice is agreed to by EPA. In addition, EPA has the right to take any additional samples that EPA deems necessary. Upon request, EPA will provide to Purchaser split or duplicate samples of any samples it takes as part of EPA's oversight of Purchaser' implementation of the Work.

f. Purchaser shall submit to EPA the results of all sampling and/or tests or other data obtained or generated by or on behalf of Purchaser with respect to the Site and/or the implementation of this Settlement.

g. Purchaser waives any objections to any data gathered, generated, or evaluated by EPA or Purchaser in the performance or oversight of the Work that has been verified according to the QA/QC procedures required by the Settlement or any EPA-approved Work Plans or Sampling and Analysis Plans. If Purchaser objects to any other data relating to the Work, Purchaser shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days after the monthly progress report containing the data.

54. **Community Involvement**. If requested by EPA, Purchaser shall participate in community involvement activities, including participation in (1) the preparation of information regarding the Work for dissemination to the public, with consideration given to including mass media and/or Internet notification, and (2) public meetings that may be held or sponsored by EPA to explain activities at or relating to the Site. Purchaser's support of EPA's community involvement activities may include providing online access to initial submissions and updates of deliverables to (1) any community advisory groups, (2) any technical assistance grant recipients and their advisors, and (3) other entities to provide them with a reasonable opportunity for review and comment. All community involvement activities conducted by Purchaser at EPA's request are subject to EPA's oversight. Upon EPA's request, Purchaser shall establish a

community information repository at or near the Site to house one copy of the administrative record.

55. **Post-Removal Site Control.** In accordance with the NTCRA Work Plan schedule, or as otherwise directed by EPA, Purchaser shall submit to EPA for review and approval, in accordance with Paragraph 50.h, a proposal for Post-Removal Site Control for the Property, and including waste left in place, and monitoring of on-Property wells to ensure effectiveness and integrity of the on-Property removal action. Upon EPA approval, Purchaser shall either conduct Post-Removal Site Control activities, or obtain a written commitment from another party for conduct of such activities, until such time as EPA determines that no further Post-Removal Site Control is necessary for the Property or until the issuance of the Notice of Completion of Work in Section XXVI (Notice of Completion of Work), whichever comes first. Purchaser shall provide EPA with documentation of all Post-Removal Site Control commitments.

56. **Progress Reports**. Purchaser shall submit a written progress report to EPA concerning actions undertaken pursuant to this Settlement on a monthly basis, or as otherwise requested by EPA, from the Effective Date until issuance of Notice of Completion of Work pursuant to Section XXVI (Notice of Completion of Work), unless otherwise directed in writing by the RPM. These reports must describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

57. **Final Report**. Within 60 days after completion of all Work required by this Settlement, other than continuing obligations listed in Section XXVI (Notice of Completion of Work), Purchaser shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Settlement. The final report must conform, at a minimum, with the requirements set forth in Section 300.165 of the NCP entitled "OSC Reports." The final report must include a good faith estimate of total costs or a statement of actual costs incurred in complying with the Settlement, a listing of quantities and types of materials removed off-Property or handled on-Property a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of the analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (e.g., manifests, invoices, bills, contracts, and permits). The final report shall also include the following certification signed by a responsible corporate official of Purchaser's Project Coordinator: "I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

58. **Off-Site Shipments**

a. Purchaser may ship hazardous substances, pollutants and contaminants from the Site or Property to an off-Site or off-Property facility only if it complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Purchaser will be deemed to be in compliance with CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440 regarding a shipment if Purchaser obtains a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b).

b. Purchaser may ship Waste Material from the Site or Property to an out-of-state waste management facility only if, prior to any shipment, it provides written notice to the appropriate state environmental official in the receiving facility's state and to the RPM. This written notice requirement does not apply to any off-Site or off-Property shipments when the total quantity of all such shipments will not exceed ten cubic yards. The written notice must include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. Purchaser also shall notify the state environmental official referenced above and the RPM of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. Purchaser shall provide the written notice after the award of the contract for the removal action and before the Waste Material is shipped.

c. Purchaser may ship Investigation Derived Waste ("IDW") from the Site or Property to an off-Site or off-Property facility only if it complies with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), 40 C.F.R. § 300.440, EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992), and any IDW-specific requirements contained in the Action Memorandum. Wastes shipped off-Site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 C.F.R. § 261.4(e) shipped off-Site for treatability studies, are not subject to 40 C.F.R. § 300.440.

VIII. PROPERTY REQUIREMENTS

59. **Access and Non-Interference.** Commencing on the Effective Date, Purchaser shall: (i) provide EPA and its representatives, including contractors, and subcontractors, with access to the Property at all reasonable times to conduct any activity regarding the Settlement, including those activities listed in Paragraph 59.a (Access Requirements); (ii) refrain from using such Property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment due to exposure to Waste Material, or interfere with or adversely affect the implementation, integrity, or protectiveness of the removal action.

a. **Access Requirements.** The following is a non-exclusive list of activities for which access to the Property is required pursuant to this Settlement:

(1) Monitoring the Work;

(2) Verifying any data or information submitted to the United States;

(3) Conducting investigations regarding contamination at or near the Property;

(4) Obtaining samples;

(5) Assessing the need for, planning, implementing, or monitoring response actions;

(6) Assessing implementation of quality assurance and quality control practices as defined in the approved quality assurance quality control plan as defined in any approved QAPP;

(7) Implementing the Work pursuant to the conditions set forth in Paragraph 107 (Work Takeover);

(8) Implementing a response action by persons performing under EPA oversight;

(9) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Purchaser or its agents consistent with Section IX (Access to Information);

(10) Assessing Purchaser's compliance with the Settlement;

(11) Determining whether the Property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted under the Settlement or an EPA decision document for the Site or Property;

(12) Implementing, monitoring, maintaining, reporting on, and enforcing any land, water, or other resource use restrictions and any institutional controls regarding the Property.

b. **Land, Water, or Other Resource Use Restrictions.** Purchaser shall remain in compliance with any land use restrictions established in connection with any response action at the Property; implement, maintain, monitor, and report on institutional controls; and not impede the effectiveness or integrity of any institutional control employed at the Property in connection with a response action.

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60. **Notice to Successors-in-Title**

a. Purchaser shall within 15 days after the Effective Date, submit for EPA approval a notice to be filed in the appropriate land records office regarding the Property. The notice must: (1) include a proper legal description of the Property; (2) provide notice to all successors-in-title that: (i) the Property is part of, or related to, the Site, and (ii) Purchaser has entered into an Administrative Settlement Agreement requiring implementation of a response action and compliance with the requirements in Section VIII (Property Requirements); and (3) identify the name, CERCLA docket number, and Effective Date of this Settlement. Purchaser shall record the notice within ten (10) days after EPA's approval of the notice and Purchaser shall submit a certified copy of the recorded notice to EPA within 10 days of recordation.

b. Purchaser shall, prior to entering into a contract to Transfer its Property, or any portion of or interest in the Property, or 60 days prior to transferring its Property, whichever is earlier:

(1) Notify the proposed transferee that Purchaser has entered into an Administrative Settlement Agreement requiring implementation of a response action at the Property and compliance with the requirements in Section VIII (Property Requirements) (identifying the name, CERCLA docket number, and the Effective Date of this Settlement); and

(2) Notify EPA of the name and address of the proposed transferee, provide EPA with a copy of the above notice that it provided to the proposed transferee, and notify EPA if Purchaser seeks to transfer its rights, obligations, and benefits under the Settlement in conjunction with Paragraphs 9, 10, and 11.

61. For so long as Purchaser is an owner or operator of the Property or any part thereof, Purchaser shall require that assignees, successors in interest, and any lessees, sublessees and other parties with rights to use the Property or any part thereof still owned by Purchaser to provide access and cooperation to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA oversight consistent with the Settlement. Purchaser shall require that assignees, successors in interest, and any lessees, sublessees, and other parties with rights to use the Property or any part thereof implement and comply with any land use restrictions and institutional controls on the Property in connection with any response action, and not contest EPA's authority to enforce any land use restrictions and institutional controls on the Property or any part thereof.

62. Upon sale or other conveyance of the Property or any part thereof, Purchaser shall require that each successor in title, grantee, transferee, or other holder of an interest in the Property or any part thereof shall provide access and cooperation to EPA, its authorized officers, employees, representatives, and all other persons performing response actions under EPA

oversight. Purchaser shall require that each successor in title, grantee, transferee or other holder of an interest in the Property or any part thereof implements and complies with any land use restrictions and institutional controls on the Property in connection with a response action and not contest EPA's authority to enforce any land use restrictions and institutional controls on the Property or any part thereof. After EPA's issuance of the Notice of Completion and Purchaser's written demonstration to EPA that a successor in title, grantee, transferee or other holder of an interest in the Property or any part thereof agrees to comply with the requirements of this Paragraph 62, EPA will notify Purchaser that its obligations under the Settlement, except obligations under Section X (Record Retention) and Section IX (Access to Information), are terminated with respect to the Site and the Property or any part thereof.

63. Purchaser shall provide a copy of this Settlement to any current lessee, sublessee, and other party with rights to use the Property or any part thereof as of the Effective Date.

64. Notwithstanding any provision of this Settlement, EPA retains all of its access authorities and rights, as well as all of its rights to require land, water or other resource use restrictions and institutional controls, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statute or regulations.

IX. ACCESS TO INFORMATION

65. Purchaser shall provide to EPA, upon request, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as "Records") within Purchaser's possession or control or that of its contractors or agents relating to activities at the Site or to the implementation of this Settlement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information regarding the Work. Purchaser shall also make available to EPA, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

66. **Privileged and Protected Claims**

a. Purchaser may assert all or part of a Record requested by EPA is privileged or protected as provided under federal law, in lieu of providing the Record, provided Purchaser complies with Paragraph 66.b, and except as provided in Paragraph 66.c.

b. If Purchaser asserts such a privilege or protection, it shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Purchaser shall provide the Record to EPA in redacted form to mask the privileged or protected portion only. Purchaser shall retain all Records that it claims

to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Purchaser's favor.

c. Purchaser may make no claim of privilege or protection regarding: (1) any data regarding the Site, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the Site or (2) the portion of any Record that Purchaser is required to create or generate pursuant to this Settlement.

67. **Business Confidential Claims.** Purchaser may assert that all or part of a Record provided to EPA under this Section or Section X (Record Retention) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Purchaser shall segregate and clearly identify all Records or parts thereof submitted under this Settlement for which Purchaser asserts business confidentiality claims. Records that Purchaser claims to be confidential business information will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Purchaser that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), or 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to Purchaser.

68. Notwithstanding any provision of this Settlement, EPA retains all its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

X. RECORD RETENTION

69. For a period of ten (10) years following completion of the Work, unless EPA agrees in writing to a shorter time period, Purchaser shall preserve all documents and information relating to the Work and any hazardous substances, pollutants or contaminants found on or released from the Property. At the conclusion of the document retention period, Purchaser shall notify EPA at least 90 days prior to the destruction of any such Records, and upon request by EPA, except as provided in Paragraph 66 (Privileged and Protected Claims), Purchaser shall deliver any such Records to EPA. These record retention requirements apply regardless of any corporate retention policy to the contrary and is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986 ("EPCRA"), 42 U.S.C. § 11004.

XI. COMPLIANCE WITH OTHER LAWS

70. Nothing in this Settlement limits Purchaser's obligations to comply with the requirements of all applicable state and federal laws and regulations, except as provided in Section 121(e)(1) of CERCLA, 42 U.S.C. § 9621(e)(1), and 40 C.F.R. §§ 300.400(e) and 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-site actions required pursuant to this Settlement shall, to the extent practicable, as determined by EPA, considering the exigencies

of the situation, attain ARARs under federal environmental or state environmental or facility siting laws.

71. No local, state, or federal permit shall be required for any portion of the Work conducted entirely on-site (i.e., within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work), including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work that is not on-site requires a federal or state permit or approval, Purchaser shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. Purchaser may seek relief under the provisions of Section XV (Force Majeure) for any delay in the performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval required for the Work, provided that it has submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals. This Settlement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XII. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

72. **Emergency Response.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the Property that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Purchaser shall immediately take all appropriate action to prevent, abate, or minimize such release or threat of release. Purchaser shall take these actions in accordance with all applicable provisions of this Settlement, including, but not limited to, the Health and Safety Plan. Purchaser shall also immediately notify the RPM or, in the event of his/her unavailability, the Regional Duty Officer at (800) 300-2193 of the incident or Property conditions. If Purchaser fails to take appropriate response action as required by this Paragraph 72, and EPA takes such action instead, Purchaser shall reimburse EPA for all costs of such response action not inconsistent with the NCP pursuant to Section XIII (Payment of Response Costs).

73. **Release Reporting.** Upon the occurrence of any event during performance of the Work that Purchaser is required to report pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, or Section 304 of the EPCRA, 42 U.S.C. § 11004, Purchaser shall immediately orally notify the RPM or, in the event of his unavailability, the Regional Duty Officer at (800) 300-2193, and the National Response Center at (800) 424-8802. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of EPCRA, 42 U.S.C. § 11004.

74. For any event covered under this Section, Purchaser shall submit a written report to EPA within seven (7) days after the onset of such event, setting forth the action or event that occurred and the measures taken, and to be taken, to mitigate any release or threat of release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release or threat of release.

XIII. PAYMENT OF RESPONSE COSTS

75. **Payments for Future Response Costs.** Purchaser shall pay to EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Purchaser a bill requiring payment that includes a cost summary report, which includes direct and indirect costs incurred by EPA, its contractors, subcontractors, and the United States Department of Justice. Purchaser shall make all payments within 30 days of Purchaser's receipt of each bill requiring payment in accordance with Paragraph 76 (Payment Instructions), except as otherwise provided in Paragraph 79 (Contesting Future Response Costs).

76. **Payment Instructions.** Purchaser shall make all payments at https://www.pay.gov in accordance with the following payment instructions: enter "sfo 1.1" in the search field to access EPA's Miscellaneous Payments Form – Cincinnati Finance Center. Complete the form including the name (El Monte SS Properties), CERCLA docket number (2023-01) and Site Identification Number (A9DF). Purchaser shall submit to EPA in accordance with Paragraph 137, a notice of this payment including these references.

77. **Deposit of Payments.** The total amount to be paid by Purchaser pursuant to Paragraph 75 (Payments for Future Response Costs) shall be deposited by EPA in the EPA Hazardous Substance Superfund.

78. **Interest.** If any payment is not made by the date required, Purchaser shall pay Interest on the unpaid balance. The Interest on Future Response Costs under Paragraph 75 (Payments for Future Response Costs) shall begin to accrue on the date of the bill. The Interest shall accrue through the date of Purchaser's payment. Payments of Interest made under this Paragraph 78 shall be in addition to such other remedies or sanctions available to the United States by virtue of Purchaser's failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI (Stipulated Penalties).

79. **Contesting Future Response Costs.** Purchaser may initiate the procedures of Section XIV (Dispute Resolution) regarding payment of any Future Response Costs billed under Paragraph 75 (Payments for Future Response Costs**)** if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. To initiate such dispute, Purchaser shall submit a Notice of Dispute in writing to the EPA Attorney identified in Paragraph 137 within 30 days after receipt of the bill. Any such Notice of Dispute shall specifically identify the contested Future Response Costs and the basis for objection. If Purchaser submits a Notice of Dispute, Purchaser shall within the 30-day period, also as a requirement for initiating the dispute, (a) pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 76 (Payment Instructions), and (b) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Purchaser shall send to the RPM a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow

account is established as well as a bank statement showing the initial balance of the escrow account. If EPA prevails in the dispute, within five (5) days after the resolution of the dispute, the escrow agent shall release the sums due (with accrued interest) to EPA in the manner described in Paragraph 76 (Payment Instructions). If Purchaser prevails concerning any aspect of the contested costs, the escrow agent shall release that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in Paragraph 76 (Payment Instructions). Purchaser shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph 79 (Contesting Future Response Costs) in conjunction with the procedures set forth in Section XIV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes under Purchaser's obligation to reimburse EPA for its Future Response Costs.

XIV. DISPUTE RESOLUTION

80. Unless otherwise expressly provided for in this Settlement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement. EPA and Purchaser shall attempt to resolve any disagreements concerning this Settlement expeditiously and informally. If EPA contends that Purchaser is in violation of this Settlement, EPA will notify Purchaser in writing, setting forth the basis for its position. Purchaser may dispute EPA's position pursuant to Paragraph 81 (Informal Dispute Resolution).

81. **Informal Dispute Resolution.** If Purchaser objects to any EPA action taken pursuant to this Settlement, including billings for Future Response Costs, Purchaser shall send the RPM and EPA counsel, with a copy to DOJ, a written Notice of Dispute describing the objection(s) within 30 days after such action. EPA and Purchaser shall have 30 days from EPA's receipt of Purchaser's Notice of Dispute to resolve the dispute through informal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Any agreement reached by EPA and Purchaser pursuant to this Section shall be in writing and will, upon signature by EPA and Purchaser, be incorporated into and become an enforceable part of this Settlement.

82. **Formal Dispute Resolution.** If EPA and Purchaser are unable to reach an agreement within the Negotiation Period, Purchaser shall, within 20 days after the end of the Negotiation Period, submit a statement of position to the RPM and EPA Attorney, with a copy to DOJ. EPA may, within 20 days thereafter, submit a statement of position. Thereafter, an EPA management official at the Division Director level or higher will issue a written decision on the dispute to Purchaser, with a copy to DOJ. EPA's decision will be incorporated into and become an enforceable part of this Settlement. Purchaser shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs.

83. Except as provided in Paragraph 79 (Contesting Future Response Costs) or as agreed by EPA, the invocation of formal dispute resolution procedures under this Section does not extend, postpone, or affect in any way any obligation of Purchaser under this Settlement. Except as provided in Paragraph 93, stipulated penalties with respect to the disputed matter shall continue to accrue, but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of

noncompliance with any applicable provision of this Settlement. If Purchaser does not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XVI (Stipulated Penalties).

XV. FORCE MAJEURE

84. "Force Majeure," for purposes of this Settlement, is defined as any event arising from causes beyond the control of Purchaser, of any entity controlled by Purchaser, or of Purchaser's contractors that delays or prevents the performance of any obligation under this Settlement despite Purchaser's best efforts to fulfill the obligation. The requirement that Purchaser exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work or increased cost of performance.

85. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement for which Purchaser intends or may intend to assert a claim of force majeure, Purchaser shall notify EPA's RPM orally or, in his or her absence, the alternate EPA RPM, or, in the event both of EPA's designated representatives are unavailable, the Director of the Superfund and Emergency Management Division, EPA Region IX, within 48 hours of when Purchaser first knew that the event might cause a delay. Within seven (7) days thereafter, Purchaser shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Purchaser's rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Purchaser, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Purchaser shall include with any notice all available documentation supporting its claim that the delay was attributable to a force majeure. Purchaser shall be deemed to know of any circumstance of which Purchaser, any entity controlled by Purchaser, or Purchaser's contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Purchaser from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under Paragraph 84 and whether Purchaser has exercised best efforts under Paragraph 84, EPA may, in its unreviewable discretion, excuse in writing Purchaser's failure to submit timely or complete notices under this Paragraph 85.

86. If EPA agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Settlement that are affected by the force majeure will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure, EPA will notify Purchaser in writing of its decision. If EPA agrees that the delay is attributable to a force majeure, EPA will notify Purchaser in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

87. If Purchaser elects to invoke the dispute resolution procedures set forth in Section XIV (Dispute Resolution), it shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Purchaser shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Purchaser complied with the requirements of Paragraphs 84 and 85. If Purchaser carries this burden, the delay at issue shall be deemed not to be a violation by Purchaser of the affected obligation of this Settlement identified to EPA.

88. The failure by EPA to timely complete any obligation under the Settlement is not a violation of the Settlement, provided, however, that if such failure prevents Purchaser from meeting one or more deadlines under the Settlement, Purchaser may seek relief under this Section.

XVI. STIPULATED PENALTIES

89. Purchaser shall be liable to the United States for stipulated penalties in the amounts set forth in Paragraphs 90.a and 91 for failure to comply with the obligations specified in Paragraphs 90.b and 91, unless excused under Section XV (Force Majeure). "Comply" as used in the previous sentence include compliance by Purchaser with all applicable requirements of this Settlement, within the deadlines established under this Settlement.

90. **Stipulated Penalty Amounts – Payments, Major Deliverables, Financial Assurance, and Other Milestones**

a. The following stipulated penalties shall accrue per violation per day for failure to comply with any of the obligations identified in Paragraph 90.b:

Penalty per Violation per Day	Period of Noncompliance
$500	1st through 14th day
$1000	15th through 30th day
$2000	31st day and beyond

b. Obligations

(1) Payment of any amount due under Section XIII (Payment of Response Costs).

(2) Establishment and maintenance of financial assurance in accordance with Section XXIV (Financial Assurance).

(3) Establishment of an escrow account to hold any disputed Future Response Costs under Paragraph 79 (Contesting Future Response Costs).

(4) Submission of the following deliverables in accordance with Paragraph 50:

a) EE/CA Work Plan

b) EE/CA Study Report

c) NTCRA Work Plan

d) Final Report

(5) Initiation of Site Characterization for the Property in accordance with Site Characterization Work Plan for the Property and initiation of the NTCRA in accordance with NTCRA Work Plan.

91. **Stipulated Penalty Amounts – Other Deliverables and Violations.** The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate deliverables pursuant to this Settlement, other than those specified in Paragraph 90.a. or for any other noncompliance with this Settlement not specified in Paragraph 90.a:

Penalty per Violation per Day	**Period of Noncompliance**
$250	1st through 14th day
$500	15th through 30th day
$1000	31st day and beyond

92. If EPA assumes performance of a portion or all of the Work pursuant to Paragraph 107 (Work Takeover), Purchaser shall be liable for a stipulated penalty in the amount of $500,000. Stipulated penalties under this Paragraph 92 are in addition to the remedies available to EPA under Paragraphs 107 (Work Takeover) and 125 (Access to Financial Assurance).

93. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Penalties shall continue to accrue during any dispute resolution period and shall be paid within 15 days after the agreement or the receipt of EPA's decision or order. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Section VII (Removal Action to be Performed), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Purchaser of any deficiency; and (b) with respect to a decision by the EPA management official at the Division Director level or higher, under Paragraph 82 (Formal Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement.

94. Following EPA's determination that Purchaser has failed to comply with a requirement of this Settlement, EPA may give Purchaser written notification of the failure and describe the noncompliance. EPA may send Purchaser a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph 93 regardless of whether EPA has notified Purchaser of a violation.

95. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Purchaser's receipt from EPA of a demand for payment of the penalties, unless Purchaser invokes the dispute resolution procedures under Section XIV (Dispute Resolution) within the 30-day period. Purchaser shall make all payments and shall send notice of such payments in accordance with the procedures under Paragraph 76 (Payment Instructions). Purchaser should indicate in the comment field on the https://www.pay.gov payment form that the payment is for stipulated penalties.

96. If Purchaser fails to pay stipulated penalties when due, Purchaser shall pay Interest on the unpaid stipulated penalties as follows: (a) if Purchaser has timely invoked dispute resolution procedures under Section XIV (Dispute Resolution) such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to Paragraph 93 until the date of payment; and (b) if Purchaser fails to timely invoke dispute resolution procedures under Section XIV (Dispute Resolution), Interest shall accrue from the date of demand under Paragraph 93 until the date of payment. If Purchaser fails to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

97. The payment of penalties and Interest, if any, shall not alter in any way Purchaser's obligation to complete the performance of the Work required under this Settlement.

98. Nothing in this Settlement shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Purchaser's violation of this Settlement or of the statutes and regulations upon which it is based including, but not limited to, penalties pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), provided, however, that the United States shall not seek civil penalties pursuant to Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), for any violation for which a stipulated penalty is provided herein, except in the case of a willful violation of this Settlement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 107 (Work Takeover).

99. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement.

XVII. CERTIFICATION

100. By entering into this Settlement, Purchaser certifies under penalty of perjury that to the best of its knowledge and belief it has fully and accurately disclosed to EPA all information known to Purchaser and all information in the possession or control of its officers, directors, employees, contractors and agents which relates in any way to any Existing

Contamination or any past or potential future release of hazardous substances, pollutants or contaminants at or from the Site and Property and to its qualification for this Settlement. Purchaser also certifies that to the best of its knowledge and belief it is a BFPP as defined by Section 101(40) of CERCLA, 42 U.S.C. § 9601(40). EPA has requested certain documents that Purchaser has represented are subject to a nondisclosure agreement. If Purchaser has not provided these documents to EPA by the Effective Date of this Settlement, Purchaser will provide, no later than the Effective Date, contact information for parties controlling release of the document, and will not object to release of the documents to EPA.

XVIII. COVENANTS BY UNITED STATES

101. Except as provided in Section XIX (Reservations of Rights by United States), the United States covenants not to sue or to take administrative action against Purchaser pursuant to Sections 106, and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, for Existing Contamination, the Work, and payments under Section XIII (Payment of Response Costs). These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the complete and satisfactory performance by Purchaser of its obligations under this Settlement. These covenants are also conditioned upon the veracity of the information provided to EPA by Purchaser relating to Purchaser's involvement with the Site and Property and the certification made by Purchaser in Section XVII (Certification).

102. Except with respect to a future transfer of Purchaser's rights, obligations, and benefits of the Settlement, approved by EPA pursuant to Paragraphs 9, 10, and 11 of this Settlement, these covenants extend only to Purchaser and do not extend to any other person.

103. Nothing in this Settlement constitutes a covenant not to sue or not to take action or otherwise limits the ability of the United States or EPA to seek or obtain further relief from Purchaser if the information provided to EPA by Purchaser relating to Purchaser's involvement with the Site or the certification made by Purchaser in Section XVII (Certification) is false or in any material respect inaccurate.

XIX. RESERVATIONS OF RIGHTS BY UNITED STATES

104. Except as specifically provided in this Settlement, nothing in this Settlement shall limit the power and authority of the United States or EPA to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, except as specifically provided in this Settlement, nothing in this Settlement shall prevent the United States from seeking legal or equitable relief to enforce the terms of this Settlement or from taking other legal or equitable action as it deems appropriate and necessary.

105. The covenants set forth in Section XVIII (Covenants by United States) do not pertain to any matters other than those expressly identified therein. The United States reserves, and this Settlement is without prejudice to, all rights against Purchaser with respect to all other matters, including, but not limited to:

a. liability for failure by Purchaser to meet a requirement of this Settlement;

b. criminal liability;

c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability resulting from the release or threat of release of hazardous substances, pollutants or contaminants at or in connection with the Site after the Effective Date, not within the definition of Existing Contamination;

e. liability resulting from an act or omission that causes exacerbation of Existing Contamination by Purchaser, its successors, assigns, lessees, or sublessees; and

f. liability arising from the disposal, release or threat of release of Waste Materials outside of the Property, except as provided in clause c of the definition of Existing Contamination.

106. With respect to any claim or cause of action asserted by the United States, Purchaser shall bear the burden of proving that the claim or cause of action, or any part thereof, is attributable solely to Existing Contamination and that Purchaser has complied with all of the requirements of Sections 101(40) and 107(r) of CERCLA, 42 U.S.C. §§ 9601(40) and 9607(r).

107. **Work Takeover**

a. If EPA determines that Purchaser: (1) has ceased implementation of any portion of the Work, (2) is seriously or repeatedly deficient or late in its performance of the Work, or (3) is implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may issue a written notice ("Work Takeover Notice") to Purchaser. Any Work Takeover Notice issued by EPA (which writing may be electronic) will specify the grounds upon which such Work Takeover Notice was issued and will provide Purchaser a period of 30 days within which to remedy the circumstances giving rise to EPA's issuance of such Work Takeover Notice.

b. If, after expiration of the 30-day notice period specified in Paragraph 107.a, Purchaser has not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA may at any time thereafter assume the performance of all or any portion(s) of the Work as EPA deems necessary ("Work Takeover"). EPA will notify Purchaser in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this Paragraph 107.b. Funding of Work Takeover costs is addressed under Paragraph 125 (Access to Financial Assurance).

c. Purchaser may invoke the procedures set forth in Paragraph 82 (Formal Dispute Resolution) to dispute EPA's implementation of a Work Takeover

under Paragraph 107. However, notwithstanding Purchaser's invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover under Paragraph 107 until the earlier of (1) the date that Purchaser remedies, to EPA's satisfaction, the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, or (2) the date that a written decision terminating such Work Takeover is rendered in accordance with Paragraph 82 (Formal Dispute Resolution).

d. Notwithstanding any other provision of this Settlement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XX. COVENANTS BY PURCHASER

108. Purchaser covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to Existing Contamination, the Work, payments under Section XIII (Payment of Response Costs), and this Settlement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions, including any claim under the United States Constitution, the California Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or

c. any claim pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law regarding Existing Contamination, the Work, payments under Section XIII (Payment of Response Costs), and this Settlement.

109. These covenants not to sue shall not apply if the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Section XIX (Reservations of Rights by United States), other than in Paragraph 105.a (liability for failure to meet a requirement of this Settlement) or 105.b (criminal liability), but only to the extent that Purchaser's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

110. Nothing in this Settlement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d), or Section 112 of CERCLA, 42 U.S.C. § 9612, or 40 C.F.R. Part 307.

111. Purchaser reserves, and this Settlement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and

brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of Purchaser's deliverables or activities.

XXI. EFFECT OF SETTLEMENT/CONTRIBUTION

112. Nothing in this Settlement creates any rights in, or grants any cause of action to, any person not a Party to this Settlement. Except as provided in Section XX (Covenants by Purchaser), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Property or Site against any person not a Party hereto. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and (3), to pursue any such persons to obtain additional response costs or response actions and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2).

113. If a suit or claim for contribution is brought against Purchaser, notwithstanding the provisions of Section 107(r)(1) of CERCLA, 42 U.S.C. § 9607(r)(1), with respect to Existing Contamination (including any claim based on the contention that Purchaser is not a BFPP, or has lost its status as a BFPP as a result of response actions taken in compliance with this Settlement or at the direction of EPA's RPM), the Parties agree that this Settlement constitutes an administrative settlement pursuant to which Purchaser has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work, payments under Section XIII (Payment of Response Costs), and all response actions taken or to be taken and all response costs incurred or to be incurred in connection with Existing Contamination by the United States or any other person, except the State. However, if the United States exercises rights under the reservations in Section XIX (Reservations of Rights by United States), other than in Paragraphs 105.a (liability for failure to meet a requirement of this Settlement) or 105.b (criminal liability), the "matters addressed" in this Settlement will no longer include those response costs or response actions that are within the scope of the exercised reservation.

114. If Purchaser is found, in connection with any action or claim it may assert to recover costs incurred or to be incurred with respect to Existing Contamination, not to be a BFPP, or to have lost its status as a BFPP as a result of response actions taken in compliance with this Settlement or at the direction of EPA's RPM, the Parties agree that this Settlement constitutes an administrative settlement pursuant to which Purchaser has, as of the Effective

Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

115. Purchaser shall, with respect to any suit or claim brought by it against any party for matters related to this Settlement, notify EPA and DOJ in writing no later than 60 days prior to the initiation of such suit or claim. Purchaser shall, with respect to any suit or claim brought against it for matters related to this Settlement, notify EPA in writing within ten (10) days after service of the complaint or claim upon it. In addition, Purchaser shall notify EPA within ten (10) days after service or receipt of any Motion for Summary Judgment and within ten (10) days after receipt of any order from a court setting a case for trial, for matters related to this Settlement.

XXII. INDEMNIFICATION

116. The United States does not assume any liability by entering into this Settlement or by virtue of any designation of Purchaser as EPA's authorized representatives under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and 40 C.F.R. § 300.400(d)(3). Purchaser shall indemnify, save, and hold harmless the United States, its officials, agents, employees, contractors, subcontractors, and representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Purchaser, its officers, directors, employees, agents, contractors, or subcontractors, and any persons acting on Purchaser's behalf or under its control, in carrying out activities pursuant to this Settlement. Further, Purchaser agrees to pay the United States all costs it incurs, including but not limited to attorneys' fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Purchaser, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Settlement. The United States shall not be held out as a party to any contract entered into by or on behalf of Purchaser in carrying out activities pursuant to this Settlement. Neither Purchaser nor any such contractor shall be considered an agent of the United States.

117. The United States shall give Purchaser notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Purchaser prior to settling such claim.

118. Purchaser covenants not to sue and agrees not to assert any claims or causes of action against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Purchaser and any person for performance of Work on or relating to the Site or Property, including, but not limited to, claims on account of construction delays. In addition, Purchaser shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Purchaser and any person for performance of Work on or relating to the Site or Property, including, but not limited to, claims on account of construction delays.

XXIII. INSURANCE

119. No later than seven (7) days before commencing any on-site Work, Purchaser shall secure, and shall maintain until the first anniversary after issuance of Notice of Completion of Work pursuant to Section XXVI (Notice of Completion of Work), commercial general liability insurance with limits of $2 million per occurrence, and automobile liability insurance with limits of liability of $1 million per accident, and umbrella liability insurance with limits of liability of $3 million in excess of the required commercial general liability and automobile liability limits, naming EPA and Purchaser as an additional insureds with respect to all liability arising out of the activities performed by or on behalf of Purchaser pursuant to this Settlement. In addition, for the duration of the Settlement, Purchaser shall provide EPA with certificates of such insurance and a copy of each insurance policy. Purchaser shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement, Purchaser shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Purchaser in furtherance of this Settlement. If Purchaser demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in a lesser amount, Purchaser need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Purchaser shall ensure that all submittals to EPA under this Paragraph 119 identify the Property as 4350 Temple City Blvd. and 4303, 4313, 4315 and 4319 Rowland Ave., El Monte, California and the CERCLA docket number for this action.

XXIV. FINANCIAL ASSURANCE

120. In order to ensure completion of the Work, Purchaser shall secure financial assurance, initially in the amount of $3,000,000.00 ("Estimated Cost of the Work"). Purchaser shall, within 30 days after the Effective Date, seek EPA's approval of the form of Purchaser's financial assurance. Within 30 days after such approval, Purchaser shall secure all executed or otherwise finalized mechanisms or other documents consistent with the EPA-approved form of financial assurance and shall submit such mechanisms and documents to EPA, and DOJ. The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available from EPA or under the "Financial Assurance - Orders" category on the Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/, and satisfactory to EPA. Purchaser may use multiple mechanisms if they are limited to trust funds, surety bonds guaranteeing payment, and/or letters of credit.

a. A trust fund (1) established to ensure that funds will be available as and when needed for performance of the Work; (2) administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency; and (3) governed by an agreement that requires the trustee to make payments from the fund only when the Superfund and Emergency Management Division Director advises the trustee in writing that: (i) payments are necessary to fulfill the affected Purchaser's obligations under the Settlement; or (ii) funds held in

trust are in excess of the funds that are necessary to complete the performance of Work in accordance with this Settlement;

b. A surety bond, issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury, guaranteeing payment and/or performance in accordance with Paragraph 125 (Access to Financial Assurance);

c. An irrevocable letter of credit, issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency, guaranteeing payment in accordance with Paragraph 125 (Access to Financial Assurance);

d. A demonstration by Purchaser that it meets the financial test criteria of Paragraph 122; or

e. A guarantee to fund or perform the Work executed by a company: (1) that is a direct or indirect parent company of Purchaser or has a "substantial business relationship" (as defined in 40 C.F.R. § 264.141(h)) with Purchaser; and (2) can demonstrate to EPA's satisfaction that it meets the financial test criteria of Paragraph 122.

121. **Standby Trust.** If Purchaser seeks to establish financial assurance by using a surety bond, a letter of credit, or a corporate guarantee, Purchaser shall at the same time establish and thereafter maintain a standby trust fund, which must meet the requirements specified in Paragraph 120.a, and into which payments from the other financial assurance mechanism can be deposited if the financial assurance provider is directed to do so by EPA pursuant to Paragraph 125 (Access to Financial Assurance). An originally signed duplicate of the standby trust agreement must be submitted, with the other financial mechanism, to EPA in accordance with Paragraph 120. Until the standby trust fund is funded pursuant to Paragraph 125 (Access to Financial Assurance), neither payments into the standby trust fund nor annual valuations are required.

122. A Purchaser seeking to provide financial assurance by means of a demonstration or guarantee under Paragraph 120.d or 120.e must, within 30 days of the Effective Date:

a. Demonstrate that:

(1) Purchaser or guarantor has:

i. Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

ii. Net working capital and tangible net worth each at least six times the sum of the Estimated Cost of the Work and

the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

iii. Tangible net worth of at least $10 million; and

iv. Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; or

(2) Purchaser or guarantor has:

i. A current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and

ii. Tangible net worth at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

iii. Tangible net worth of at least $10 million; and

iv. Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

b. Submit to EPA for Purchaser or guarantor: (1) a copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, which must not express an adverse opinion or disclaimer of opinion; and (2) a letter from its chief financial officer and a report from an independent certified public accountant substantially identical to the sample letter and reports available from EPA or under the "Financial Assurance - Orders" subject list category on the Cleanup Enforcement Model Language and Sample Documents Database at https://cfpub.epa.gov/compliance/models/.

123. A Purchaser providing financial assurance by means of a demonstration or guarantee under Paragraph 120.d or 120.e must also:

a. Annually resubmit the documents described in Paragraph 122 within 90 days after the close of Purchaser's or guarantor's fiscal year;

b. Notify EPA within 30 days after Purchaser or guarantor determines that it no longer satisfies the relevant financial test criteria and requirements set forth in this Section; and

c. Provide to EPA, within 30 days of EPA's request, reports of the financial condition of Purchaser or guarantor in addition to those specified in Paragraph 122.b; EPA may make such a request at any time based on a belief that Purchaser or guarantor may no longer meet the financial test requirements of this Section.

124. Purchaser shall diligently monitor the adequacy of the financial assurance. If Purchaser becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, Purchaser shall notify EPA of such information within 30 days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify Purchaser of such determination. Purchaser shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph 124, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for Purchaser, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 60 days. Purchaser shall follow the procedures of Paragraph 126 (Modification of Amount, Form, or Terms of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Purchaser's inability to secure and submit to EPA financial assurance in accordance with this Section does not excuse performance of any other obligation under this Settlement.

125. Access to Financial Assurance

a. If upon expiration of the 30-day notice period specified in Paragraph 107.a, Purchaser has not remedied to EPA's satisfaction the circumstances giving rise to EPA's issuance of the relevant Work Takeover Notice, EPA initiates a Work Takeover pursuant to Paragraph 107.b, then, in accordance with any applicable financial assurance mechanism EPA may at any time thereafter direct the financial assurance provider to immediately: (i) deposit any funds assured pursuant to this Section into the standby trust fund, or (ii) arrange for performance of the Work in accordance with this Settlement.

b. If EPA is notified that the mechanism will be canceled, and Purchaser fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, EPA may, prior to cancellation, direct the financial assurance provider to deposit any funds guaranteed under such mechanism into the standby trust fund for use consistent with this Section.

126. **Modification of Amount, Form, or Terms of Financial Assurance.** Purchaser may submit, on any anniversary of the Effective Date or at any other time agreed to by the EPA and Purchaser, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to EPA in accordance with Paragraph 120, and must include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance, and any newly proposed financial assurance documentation in accordance with the requirements of Paragraphs 120 and 121 (Standby Trust). EPA will notify Purchaser of its decision to approve or disapprove a requested reduction or change pursuant to this Paragraph. Purchaser may reduce the amount or change the form or terms of the financial assurance mechanism only in accordance with: (a) EPA's approval; or (b) if there is a dispute, the agreement or written decision resolving such dispute under Section XIV (Dispute Resolution). Purchaser may change the form or terms of the financial assurance mechanism only in accordance with EPA's approval. Any decision made by EPA on a request submitted under this Paragraph 126 to change the form or terms of a financial assurance mechanism is not subject to challenge by Purchaser pursuant to the dispute resolution provisions of this Settlement or in any other forum. Within 30 days after receipt of EPA's approval of, or the agreement or decision resolving a dispute relating to, the requested modifications pursuant to this Paragraph 126, Purchaser shall submit to EPA all executed and/or otherwise finalized documentation relating to the amended, reduced or alternative financial assurance mechanism. Upon EPA's approval, the Estimated Cost of the Work shall be deemed to be the estimate of the cost of the remaining Work in the approved proposal.

127. **Release, Cancellation, or Discontinuation of Financial Assurance.** Purchaser may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if EPA issues a Notice of Completion of Work under Section XXVI (Notice of Completion of Work); or (b) in accordance with EPA's written approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation, or discontinuance of any financial assurance, in accordance with the agreement or final decision resolving such dispute under Section XIV (Dispute Resolution).

XXV. MODIFICATION

128. EPA's RPM may make minor modifications to any plan or schedule in writing or by oral direction. EPA will promptly memorialize in writing any oral modification, but the modification has as its effective date the date of the RPM's oral direction, unless otherwise indicated. Any other requirements of this Settlement may be modified in writing by mutual agreement of the Parties, unless otherwise specified in this Settlement.

129. If Purchaser seeks permission to deviate from any approved work plan or schedule, Purchaser's Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Purchaser may not proceed with a requested deviation until receiving oral or written approval from EPA's RPM pursuant to Paragraph 48 (Review of Deliverables).

130. No informal advice, guidance, suggestion, or comment by the RPM or other EPA representatives regarding any deliverable submitted by Purchaser shall relieve Purchaser of its

obligation to obtain any formal approval required by this Settlement, or to comply with all requirements of this Settlement, unless it is formally modified.

XXVI. NOTICE OF COMPLETION OF WORK

131. When EPA determines, after EPA's review of the final report submitted by Purchaser pursuant to Paragraph 57 (Final Report), that all Work has been fully performed in accordance with this Settlement, with the exception of any continuing obligations required by this Settlement, such as compliance with the requirements in Section VIII (Property Requirements) including, but not limited to access, post-remediation monitoring, and any post-removal site controls selected, EPA will provide written notice (Notice of Completion of Work) to Purchaser. If EPA determines that any such Work has not been completed in accordance with this Settlement, EPA will notify Purchaser, provide a list of the deficiencies of the Work, and require that Purchaser submit for approval a modified NTCRA Work Plan if appropriate in order to correct such deficiencies. Purchaser shall implement the approved modified NTCRA Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Purchaser to implement the approved modified NTCRA Work Plan is a violation of this Settlement.

XXVII. INTEGRATION/APPENDICES

132. This Settlement constitutes the entire agreement among the Parties regarding the subject matter of the Settlement and supersedes all prior representations, agreements and understandings, whether oral or written, regarding the subject matter addressed in the Settlement embodied herein. The following appendices are attached to and incorporated into this Settlement.

a. Appendix A is a map of the Property;

b. Appendix B is a map of the Site; and

c. Appendix C is a letter from DTSC to EPA dated August 19, 2022.

XXVIII. DISCLAIMER

133. This Settlement is in no way a finding by EPA as to the risks to human health and the environment that may be posed by contamination at the Property or the Site or a representation by EPA that the Property or the Site is fit for any particular purpose.

XXIX. ENFORCEMENT

134. The Parties agree that the United States District Court for the Central District of California ("Court") will have jurisdiction pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), for any judicial enforcement action brought with respect to this Settlement.

135. Notwithstanding Paragraph 101 of this Settlement, if Purchaser fails to comply with the terms of this Settlement, the United States may file a lawsuit for breach of this Settlement, or any provision thereof, in the Court. In any such action, Purchaser consents to and agrees not to contest the exercise of personal jurisdiction over it by the Court. Purchaser further

acknowledges that venue in the Court is appropriate and agrees not to raise any challenge on this basis.

136. If the United States files a civil action as contemplated by Paragraph 134, above, to remedy breach of this Settlement, the United States may seek, and the Court may grant as relief, the following: a) an order mandating specific performance of any term or provision in this Settlement, without regard to whether monetary relief would be adequate; and b) any additional relief that may be authorized by law or equity.

XXX. NOTICES AND SUBMISSIONS

137. Any notices, documents, information, reports, plans, approvals, disapprovals, or other correspondence required to be submitted from one party to another under this Settlement, are deemed submitted either when an email is transmitted and received, it is hand-delivered, or as of the date of receipt by certified mail/return receipt requested, express mail, or facsimile. Unless otherwise requested by EPA or DOJ, all submittals shall be by email or other electronic means.

Address submissions to Purchaser to:

Richard Burton, Authorized Representative
El Monte SS Properties, LLC
1171 South Robertson Blvd, Suite 417
Los Angeles, California 90035
richard@bhsp.com

With copies to:

John R. Till
Paladin Law Group® LLP
1176 Boulevard Way
Walnut Creek, California 94595
jtill@paladinlaw.com

Jeremy R Squire, PE,
Vice President
Murex Environmental, Inc.,
1 Corporate Park, Suite 101
Irvine, California, 92606
JeremySquire@murexenv.com

Address submissions to EPA to:

Raymond Chavira, Remedial Project Manager
Superfund and Emergency Management Division
EPA Region IX
75 Hawthorne Street (SFD-7-3)
San Francisco, California 94105
chavira.raymond@epa.gov

Rebekah Reynolds, Attorney Advisor
Office of Regional Counsel
EPA Region IX
reynolds.rebekah@epa.gov

Address submissions to DOJ to:

EES Case Management Unit
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
eescdcopy.enrd@usdoj.gov
Re: DJ # 90-11-2-354/38

XXXI. PUBLIC COMMENT

138. This Settlement is subject to a 30-day public comment period, after which the United States may withhold its consent or seek to modify this Settlement if comments received disclose facts or considerations that indicate that this Settlement is inappropriate, improper, or inadequate.

XXXII. EFFECTIVE DATE

139. The effective date of this Settlement is the date upon which EPA issues written notice to Purchaser that the United States has fully executed the Settlement after review of and response to any public comments received.

Signature Page for Administrative Settlement Agreement regarding 4350 Temple City Blvd. and 4303, 4313, 4315 and 4319 Rowland Ave, El Monte, California, 91731, (CERCLA Docket No. 2023-01)

IT IS SO AGREED:

EL MONTE SS PROPERTIES, LLC:

BY:

Sean Leoni, Manager Date 04/20/2023

El Monte SS Properties, LLC
1171 South Robertson Blvd, Suite 417
Los Angeles, California 90035

Signature Page for Administrative Settlement Agreement regarding 4350 Temple City Blvd. and 4303, 4313, 4315 and 4319 Rowland Ave, El Monte, California, 91731, (CERCLA Docket No. 2023-01)

IT IS SO AGREED:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

BY:

_____

Dana Barton

Assistant Director, Superfund Division

U.S. Environmental Protection Agency, Region IX

Signature Page for Administrative Settlement Agreement regarding 4350 Temple City Blvd. and 4303, 4313, 4315 and 4319 Rowland Ave, El Monte, California, 91731, (CERCLA Docket No. 2023-01)

IT IS SO AGREED:

UNITED STATES DEPARTMENT OF JUSTICE

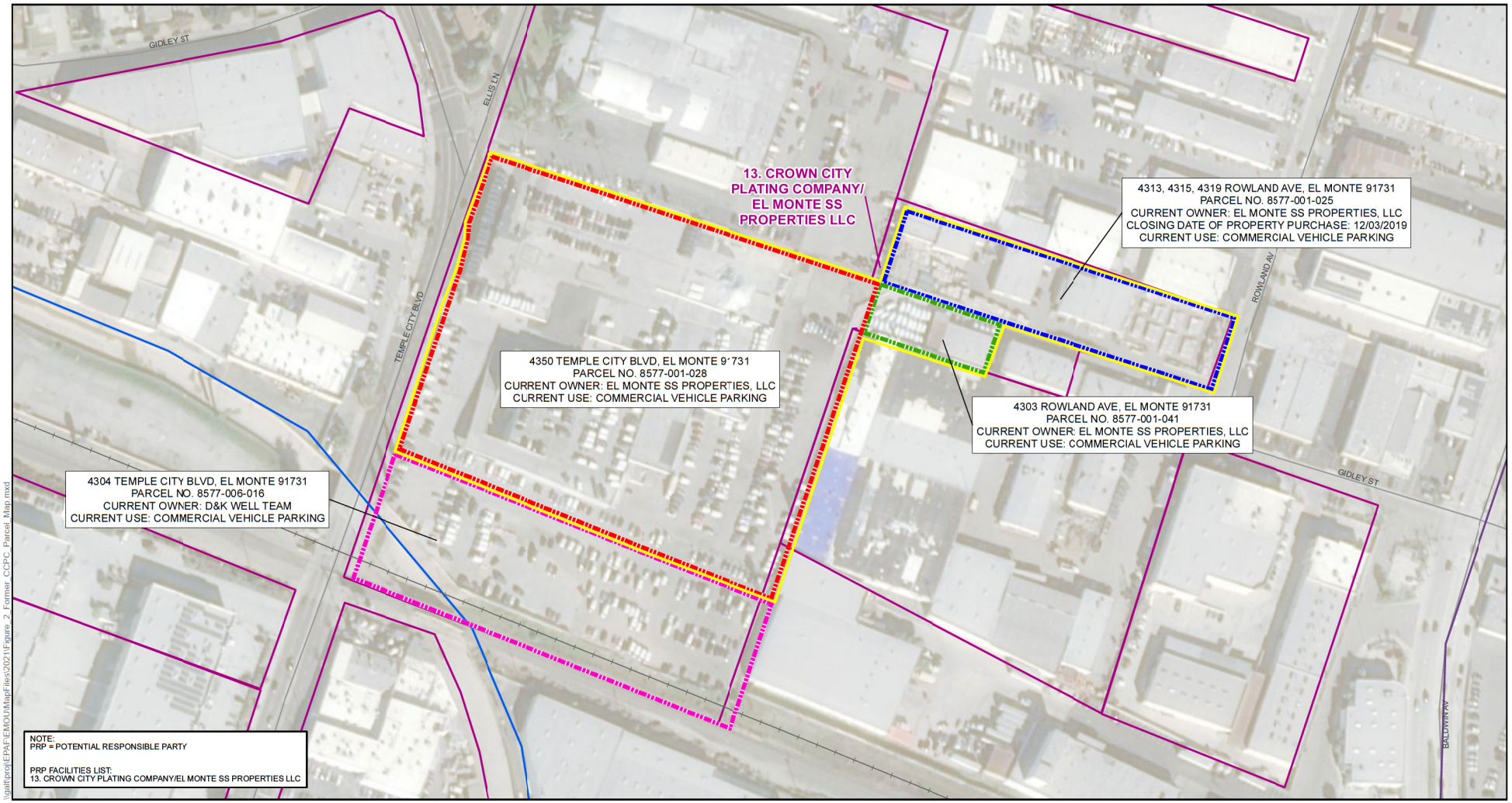
BY:

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

JOHN BEERBOWER
Digitally signed by JOHN BEERBOWER
Date: 2023.08.03 11:09:34 -04'00'

JOHN E. BEERBOWER
Trial Attorney
Environmental Enforcement Section
Environment and Natural Resource Division
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
(202) 616-6053
john.beerbower@usdoj.gov

Appendix A



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LEGEND

- RAILROAD
- STREAM
- PRP FACILITY BOUNDARY

CROWN CITY PLATING COMPANY PARCELS

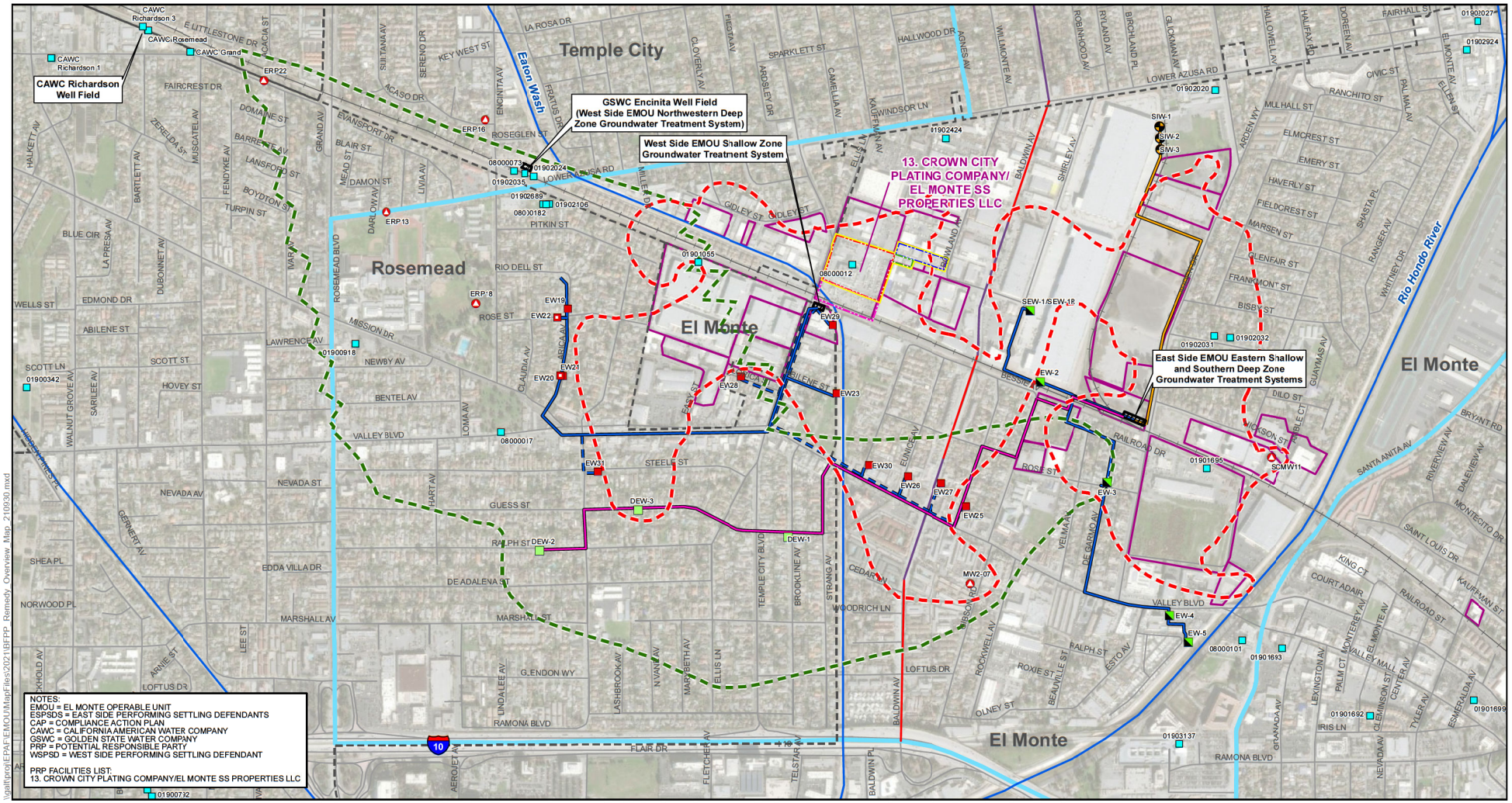
- 4313, 4315, 4319 ROWLAND AVE, EL MONTE 91731; 8577-001-025; EL MONTE SS PROPERTIES, LLC
- 4303 ROWLAND AVE, EL MONTE 91731 8577-001-041; EL MONTE SS PROPERTIES, LLC
- 4350 TEMPLE CITY BLVD, EL MONTE 91731; 8577-001-028; EL MONTE SS PROPERTIES, LLC
- 4304 TEMPLE CITY BLVD, EL MONTE 91731; 8577-006-016; D&K WELL TEAM
- EL MONTE SS PROPERTIES

N

0 75 150 300 Feet

Appendix A. FORMER CROWN CITY PLATING COMPANY PARCEL
MAP EL MONTE OPERABLE UNIT
SAN GABRIEL VALLEY
(AREA 1) SUPERFUND SITE

Appendix B



LEGEND

- RI AND ERAP MONITORING WELL (MULTIPORT / CLUSTER)
- WSPSD'S EXTRACTION WELL (SHALLOW ZONE, WATER TABLE INTERVAL)
- RA EXTRACTION WELL (SHALLOW ZONE, 160- TO 190-FOOT DEPTH INTERVAL)
- ESPSDS' DEEP EXTRACTION WELL
- ESPSDS' SHALLOW EXTRACTION WELL
- ESPSDS' SHALLOW RE-INJECTION WELL
- PRODUCTION WELL
- APPROXIMATE BOUNDARY BETWEEN EAST SIDE AND WEST SIDE EL MONTE OU
- RAILROAD
- STREAM
- NEW PIPELINE (PRELIMINARY)
- DEEP ZONE EXTRACTION WELL PIPING
- SHALLOW ZONE EXTRACTION PIPING
- SHALLOW ZONE RE-INJECTION PIPELINE
- EMOU-WIDE INFERRED SHALLOW ZONE VOC PLUME (> 10X MCL FOR TCE/PCE) [GEOSYNTEC DEC. 2020]
- EMOU-WIDE INFERRED LOWER DEEP ZONE VOC PLUME (> MCL FOR TCE/PCE) [GEOSYNTEC DEC. 2020]
- GROUNDWATER TREATMENT SYSTEM
- PRP FACILITY BOUNDARY
- EL MONTE OU STUDY AREA

CROWN CITY PLATING COMPANY PARCELS

- 4313, 4315, 4319 ROWLAND AVE, EL MONTE 91731; 8577-00[illegible]-025; EL MONTE SS PROPERTIES, LLC
- 4303 ROWLAND AVE, EL MONTE 91731 8577-00[illegible]-041; EL MONTE SS PROPERTIES, LLC
- 4350 TEMPLE CITY BLVD, EL MONTE 9173[illegible]; 8577-001-028; EL MONTE SS PROPERTIES LLC
- 4304 TEMPLE CITY BLVD, EL MONTE 9173[illegible]; 8577-006-016; D&K WELL TEAM
- EL MONTE SS PROPERTIES

N

0 500 1,000 2,000 Feet

Appendix B. REMEDY OVERVIEW MAP
EL MONTE OPERABLE UNIT
SAN GABRIEL VALLEY
(AREA 1) SUPERFUND SITE

\\pathproj\EPA\EMOU\MapFiles\2021\EFPP_Remedy_Overview_Map_210930.mxd

Appendix C

Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
9211 Oakdale Avenue
Chatsworth, California 91311

Jared Blumenfeld
Secretary for
Environmental Protection

Gavin Newsom
Governor

Sent Via E-mail Only

August 19, 2022

Mr. Raymond Chavira
Superfund Project Manager
EPA Region 9
75 Hawthorne Street; SFD-7-3
San Francisco, California 94105-3901

REFERRAL OF FORMER CROWN CITY PLATING COMPANY TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 9 (USEPA)

Dear Mr. Chavira:

Thank you for meeting with us on July 25, 2022, to discuss regulatory oversight of the properties located at 4350 Temple City Boulevard (APN 8577-01-028), 4303 Rowland Avenue (APN 8577-001-041), and 4313, 4315, and 4319 Rowland Avenue (APN 8577-001-25), El Monte, California, 91731 (Property). The Property, acquired by El Monte SS Properties, LLC (Purchaser), encompasses approximately 10 acres, and makes up a portion of the Former Crown City Plating Facility (Facility). DTSC understands the United States Environmental Protection Agency (USEPA) plans to execute a Bona Fide Prospective Purchaser (BFPP) Agreement in which Purchaser will perform a non-time critical removal action at the Property. It is anticipated the removal action will require excavation and disposal of contaminated soil and institutional controls. The Property is a significant source to groundwater contamination in the El Monte Operable Unit of the San Gabriel Valley Area 1 Superfund Site. The Department of Toxics Substances Control (DTSC) agrees that if a BFPP agreement is executed, USEPA is in good position to provide regulatory oversight to address contamination concerns at the Property.

The former Crown City Plating Company (CCPC) managed hazardous waste at the Facility pursuant to a Permit-by-Rule (PBR) permit issued on July 8,1993, by the Department of Health Services, predecessor agency to DTSC, under Health and Safety Code, Chapter 6.5 (Hazardous Waste Control Act). The PBR permit authorized three (3) units: (1) PBR Unit No.1, identified as the “Oil Water Separation Unit” or "Aboveground Spent Chemical Holding Tanks”; (2) PBR Unit No. 2, identified as the “Batch Treatment” or “Drum Wash Area”; and (3) PBR Unit No. 3, identified as the “Wastewater Treatment Area” or “Environmental Treatment Unit.” PBR

permit administration was passed from DTSC to the Consolidated Unified Program Agency (CUPA). CCPC was last given annual PBR Renewal of Authorization by the Los Angeles County Fire Department - Human Health Hazardous Material (LACFD-HHMD) in 2006. The three PBR authorized units are subject to Closure Plan pursuant California Code of Regulations, title 22, division 4.5, chapter 45 [California Code of Regulations, title 22, section 67450.3(a)(13)(B)]. Detailed requirements for the proper closure and post-closure care of CCPC were outlined in the October 9, 2019, DTSC Memorandum (Attached), provided to the current property owner via electronic mail in January 2021.

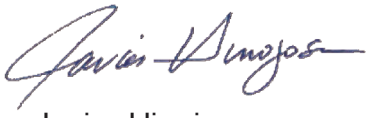
As discussed, USEPA will provide DTSC with an opportunity to identify the substantive closure and post closure requirements that are applicable or relevant and appropriate for the cleanup at the Property and incorporate these substantive requirements into the cleanup decision document as applicable or relevant and appropriate requirements (ARARs) to the extent practicable.

Purchaser's successful completion of the work under the BFPP Agreement, will be documented in the Final Report, and will satisfy Purchaser's outstanding closure and post-closure requirements at the Property. Upon USEPA's issuance of a Notice of Completion of work, DTSC will consider the PBR permit closed and will issue a letter confirming corrective action termination with or without controls.

DTSC requests copies of approved deliverables be provided electronically to Mr. Luis Davis at the address below or via email at Luis.Davis@dtsc.ca.gov so that DTSC can document progress under the BFPP Agreement. DTSC requests submittal of the Final Report and cover letter signed by the owner and registered environmental professional that certifies closure of the permitted units and corrective action for the rest of the Property has been completed and they have met the substantive requirements of Title 22 of the California Code of Regulations to the extent practicable.

If you have any questions, please contact Jose Diaz at (818) 717-6614 or e-mail at Jose.Diaz@dtsc.ca.gov

Sincerely,



Javier Hinojosa
Branch Chief
Site Mitigation and Restoration Program - Chatsworth Office

Enclosed

cc: See Next Page

cc: Mr. Luis Davis (via e-mail)
Site Mitigation and Restoration Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

Mr. Jose Diaz (via e-mail)
Site Mitigation and Restoration Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

Department of Toxic Substances Control

Jared Blumenfeld
Secretary for
Environmental Protection

Meredith Williams, Ph.D.
Acting Director
9211 Oakdale Avenue
Chatsworth, California 91311

Gavin Newsom
Governor

MEMORANDUM

TO: Jess Villamayor
Project Manager
Site Mitigation and Environmental Restoration Program – Chatsworth

FROM: Philip Chandler, CEG
Senior Engineering Geologist
Site Mitigation and Environmental Restoration Program – Chatsworth

DATE: October 09, 2019

SUBJECT: **CHAPTER 6.5 PERMIT-BY-RULE ISSUES AND REQUIREMENTS FOR CLOSURE, CONTINGENT POST-CLOSURE CARE AND FINANCIAL ASSURANCE AT THE FORMER CROWN CITY PLATING COMPANY FACILITY, 4350 TEMPLE CITY BOULEVARD, EL MONTE, CALIFORNIA**

This memorandum was prepared to describe various Chapter 6.5 issues around the former Crown City Plating Company Facility.

The former Crown City Plating Company (CCPC) facility at 4350 Temple City Boulevard in El Monte managed hazardous waste pursuant to a Permit-by-Rule (PBR) permit issued on July 8,1993, by the Department of Health Services, predecessor agency to the Department of Toxic Substances Control (DTSC). That PBR permit authorized three (3) units: (1) PBR Unit No.1, entitled "Oil Water Separation Unit" or "Aboveground Spent Chemical Holding Tanks"; (2) PBR Unit No. 2, entitled "Batch Treatment" or "Drum Wash Area"; and (3) PBR Unit No. 3, entitled "Wastewater Treatment Area" or "Environmental Treatment Unit". Administration of that PBR permit subsequently passed from DTSC to the Consolidated Unified Program Agency (CUPA). CCPC was last given annual PBR Renewal of Authorization by Los Angeles County Fire Department Human Health Hazardous Material (LACFD-HHMD) in 2006. The three units authorized by PBR were subject to Closure Plan requirements in California Code of Regulations, title 22, division 4.5, chapter 45 [California Code of Regulations, title 22, section 67450.3(a)(13)(B)].

On January 10, 2005, CCPC notified the Los Angeles County Fire Department, Petroleum Chemical Unit, Fire Prevention Division by letter that the CCPC plant had ceased operation in September 1994 and was closing. Closure "certifications", dated Feb 25, 2006, were submitted by CCPC contending that Closure was complete for SN-1 (aka PBR Unit No. 1) and SN-2 (aka PBR Unit No. 2). These were attached to Unified Program (UP) Forms for Certification of Financial Assurance submitted by CCPC as part of its 2006 "...annual Permit by Rule (PBR) notification" package." However, at the same time CCPC submitted a cost estimate for closure in the 2006 Certification of Financial Assurance for SN-3 (aka PBR Unit No. 3) which indicated that it was not yet closed. Two years later, in a October 30, 2008 "Request for a Time Critical Removal Action at the Crown City Plating Site, El Monte, Los Angeles County, California", U.S. EPA noted that Mr. Rankin, the former President/CEO of CCPC had stated that only limited Closure activities had been conducted in the Wastewater Treatment Area (SN-3 aka PR-3 and PBR Unit No. 3) and "...the system was basically left in place as it was when the facility was in operation." In other words, the Closure of SN-3 aka PBR-3 and PBR Unit No. 3 has not been completed in compliance with last CCPC re-authorization in 2006.

It is clear that PBR Unit No. 3 is still subject to Closure Plan requirements in California Code of Regulations, title 22, division 4.5, chapter 45 [e.g. section 67450.3(a)(13)(B)], Financial Assurance requirements for Closure [e.g. section 67450.13], as well as Corrective Action requirements [e.g. sections 67450.7 and 68400.16]. El Monte SS Properties, LLC is the successor owner or operator and is responsible for implementing the Closure, Financial Assurance and Corrective Action requirements for PBR Unit No. 3 at the former CCPC facility in accordance with the Closure Plan requirements in California Code of Regulations, title 22, division 4.5, chapter 45.

Therefore, El Monte SS Properties, LLC should be required by DTSC to address, under Chapter 45 and applicable sections of Chapter 6.5, Closure and Post-closure Care (as necessary) regarding the remaining contaminated concrete, soil, and ground water (inclusive of adequate financial assurance), that may be related to PBR Unit-3. This includes the Financial Assurance requirements of Chapter 45 and applicable sections of Chapter 6.5. In addition, El Monte SS Properties, LLC should also be required to address the site-wide Corrective Action requirements of Chapter 45 and applicable sections of Chapter 6.5.

PBR Unit No. 3 is a tank system as defined in California Code of Regulations, title 22, section 66260.10. The large below-grade pits/sumps at the locations of the previous plating lines and operation areas are still present. Most plating line areas contained drainage channels and secondary sumps at the bottoms of the below-grade pits/sumps. These drainage channels, that served to convey plating waste water containing hazardous constituents to pits/sumps and piping are ancillary structures to the multiple

treatment tanks of PBR Unit No. 3. According to EMCON (1989) "...all plating lines and plating tanks were installed above pits/sumps to provide access to the bottom of the tanks." The plating line tanks were located aboveground and supported on steel/concrete structures with clear access to the bottom of the tanks. The plating line pits/sumps also served as secondary containment. EMCON describes wastewater from Plating Lines 1, 3, and 5 as "...being piped via exposed piping to the WWTA." The WWTA (Wastewater Treatment Area) is PBR Unit No. 3. This causes the Plating Line 1, 3, and 5 secondary containment together with all associated pits/sumps and exposed or buried piping to be considered ancillary structures to PBR Unit No. 3 aka the WWTA. and to be subject to PBR closure and post-closure care requirements. Similarly, according to EMCON (1989), Plating Lines 6 and 7 "...were surrounded by wastewater pits/sumps used to channel plating wastewater to the WWTA." This causes the Plating Line 6 and 7 secondary containment together with associated pits/sumps, "channels", pumps and buried piping to be considered ancillary structures to PBR Unit No. 3 aka the WWTA and to be subject to PBR closure and post-closure care requirements.

California Code of Regulations, title 22, section 66260.10 [Definitions] provides that: (1) owner or operator "...means the owner or operator of any facility or activity subject to regulation under chapter 6.5 commencing with section 25100, division 20, Health and Safety Code. (2) tank system "...means a hazardous waste transfer, storage or treatment tank and its associated ancillary equipment and containment system."; (3) ancillary equipment "...means any device including, but not limited to, such devices as piping, fittings, flanges, valves and pumps, that is used to distribute, meter or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal offsite."

California Code of Regulations, title 22, section 67450.3(c)(11)(A)-FTU requires the owner or operator to maintain compliance with the following Closure requirements of California Code of Regulations, title 22, chapter 15, article 10: sections 66265.178, 66265.111(a) and 66265.111(b), 66265.114. California Code of Regulations, title 22, section 67450.3(c)(11)(B)-FTU specifies that applicable tank systems are subject to additional Closure requirements pursuant to California Code of Regulations, title 22, chapter 15, article 10. Tank systems, including sumps, are defined in California Code of Regulations, title 22, section 66260.10 [Definitions]. Article 10 specifies in section 66265.197(b) [Closure and Post-Closure Care] that "If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (a) of this section, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (section 66265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator shall meet all of the requirements for landfills specified in articles 7 and 8 of this chapter."

The PBR closure plan approved first by DHS (DTSC's predecessor) and subsequently by LACFD-HHMD, has not been fully implemented. Appropriate closure performance standards relative to the unclosed PBR Unit No. 3 at the former CCPC facility remain unmet. California Code of Regulations, title 22, section 66265.111 [Closure Performance Standard] provides that owners or operators, such as El Monte SS Properties, LLC shall close the facility meeting closure requirements of Chapter 15. California Code of Regulations, title 22, section 66265.111 [Closure Performance Standard] provides that:

> *"The owner or operator shall close the facility in a manner that*
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> *(a) minimizes the need for further maintenance; and*
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> *(b) controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or run-off, or waste decomposition products to the ground or surface waters or to the atmosphere; and*
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> (c) *complies with the closure requirements of this chapter including, but not limited to, the requirements of sections 66265.197, 66265.228, 66265.258, 66265.280, 66265.310, 66265.351, 66265.381, 66265.404 and 66265.1102."* [California Code of Regulations, Title 22, Article 7, section 66265.111]

Closure of PBR Unit No. 3 was not performed before any of the bankruptcies and subsequent transferences of title to other owners. **El Monte SS as the current owner or operator, has the responsibility for this incomplete Closure, contingent Post-closure and Corrective Action requirements for the former CCPC facility. El Monte SS Properties, LLC should be required to:**

(1) Prepare and submit an amended closure plan relative to unclosed PBR Unit No. 3 at the former CCPC facility. Neither the previous owners or El Monte SS Properties, LLC have complied with the applicable closure requirements of section 66265.111(a), (b) and (c) regarding contaminated soils. California Code of Regulations, title 22, section 66265.112(c) **[**Amendment of Plan**]** provides that: "(4) The Department may request modifications to the plan under the conditions described in subsection (c)(1) of this section. An owner or operator with an approved closure plan shall submit the modified plan within 60 days of the request from the Department, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in section 66270.42, the modification to the plan will be approved in accordance with the procedures in section

66265.112(d)(4)." **El Monte SS Properties, LLC should submit the amended closure plan within sixty (60) calendar days of receipt of notice by DTSC.**

Elements of amended Closure Plan that need to be addressed by El Monte SS Properties, LLC include:

> "a detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard;" [California Code of Regulations, title 22, section 66265.112(b)(4)]
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> "a detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and run-off control;" [California Code of Regulations, title 22, section 66265.112(b)(5)]

Vapor-phase site-derived contamination remains in place, un-remediated, and is believed to be continuing to migrate into ground water. It is recommended that soil vapor extraction (SVE) be included in the amended Closure Plan as a presumptive "remedy" to actively address removal the vadose zone contamination. Closure performance standards must be proposed that are protective of human health and the environment, e.g. ground water.

(2) Prepare and submit a contingent post-closure care plan for unclosed PBR Unit No. 3 at the former CCPC facility. California Code of Regulations, title 22, section 66265.117 [Post-Closure Care and Use of Property] **"...**pertains to facilities at which all hazardous wastes, waste residues, contaminated materials and contaminated soils will not be removed during closure." **Threat to ground water since waste discharge has been determined through some deep soil gas probes to extend through the vadose zone to ground water. Soil and ground water are contaminated at the former facility and it is anticipated that post-closure care may be required.** California Code of Regulations, title 22 specifies in section 66265.197(a) [Closure and Post-Closure Care] that "At closure of a tank system, the owner or operator shall remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless section 66261.3(d) of this division applies. The closure plan, closure activities, cost estimates for closure, and

financial responsibility for tank systems shall meet all of the requirements specified in articles 7 and 8 of this chapter". Section 66265.197(b) [Scope of Permit Requirements] states "If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in subsection (a) of this section, then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (section 66265.310). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator shall meet all of the requirements for landfills specified in articles 7 and 8 of this chapter."

(3) Prepare and submit a closure cost estimate (CE) for implementing the amended closure plan and a post-closure care CE for implementing a contingent post-closure care plan for the unclosed PBR Unit No. 3 at the former CCPC facility. The PBR Unit No. 3 closure CEs submitted by CCPC and approved by DHS and the LACFD-HHMD, stated that closure costs would be less than $10, 000 and that none of the prescribed financial assurance (FA) mechanisms were required. A realistic revised closure CE must be developed together with a post-closure care CE. California Code of Regulations, title 22 section 66265.142 [Cost Estimate for Closure] provides that "(a) The owner or operator shall prepare and submit to the Department a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in sections 66265.111 through 66265.115 and applicable closure requirements in sections 66265.178, 66265.197, 66265.228, 66265.258, 66265.280, 66265.310, 66265.351, 66265.381, 66265.404, and 66265.1102." El Monte SS shall revise the closure CE no later than thirty (30) calendar days after DTSC approves the amended Closure Plan. [California Code of Regulations, title 22, section 66265.142 (c)]. As stated earlier, DTSC anticipates that post-closure care may be required. California Code of Regulations, title 22 section 66265.144 [Cost Estimate for Post-Closure Care] provides that "(a) An owner or operator of a hazardous waste disposal unit shall prepare and submit to the Department a detailed written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in sections 66265.117 through 66265.120, 66265.228, 66265.258, 66265.280, and 66265.310." **El Monte SS should be required to provide a post-closure CE to DTSC no later than thirty (30) calendar days after DTSC has approved the Contingent Post-closure Plan. [California Code of Regulations, title 22 section 66265.144(c)]**

(4) Provide financial assurance (FA) for closure and contingent post-closure care for the unclosed PBR Unit No. 3, including all ancillary structures and equipment, at the former CCPC facility. California Code of Regulations, title 22, section 66265.143(i)(2) indicates that "When transfer of ownership or operational control

of a facility occurs" the new owner or operator is required to demonstrate to DTSC's satisfaction that he or she is complying with the financial requirements of this section. .

California Code of Regulations, title 22, section 66265.143 [Financial Assurance for Closure] provides that El Monte SS Properties, LLC as owner or operator "...shall establish and demonstrate to the Department financial assurance for closure of the facility. The owner or operator shall choose from the options as specified in subsections (a) through (e) and (h) of this section." El Monte SS Properties, LLC as new owner or operator should be required to provide closure financial assurance as specified in this section and obtain the DTSC's written approval of the FA no later than ninety (90) calendar days after DTSC has approved the amended closure plan that should be required under (1) above.

California Code of Regulations, title 22, section 66265.145 [Financial Assurance for Postclosure Care] provides that El Monte SS as owner or operator "...shall establish and demonstrate to the Department financial assurance for postclosure care of the disposal unit(s). The owner or operator shall choose from the options as specified in subsections (a) through (e) and (h) of this section." **El Monte SS Properties, LLC as new owner or operator should be required to provide financial assurance as specified in this section and obtain the DTSC's written approval of the FA no later than ninety (90) calendar days after DTSC has approved the contingent post-closure care plan being required in (2) above..**